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PROCEEDINGS
BEFORE THE
COMMITTEE ON PRIVILEGES AND ELECTIONS
OF THE
UNITED STATES SENATE
IN THE MATTER OF
THE PROTESTS AGAINST THE RIGHT OF HON. REED
SMOOT, A SENATOR FROM THE STATE
OF UTAH, TO HOLD HIS SEAT.

VOLUME III.

WASHINGTON:
GOVERNMENT PRINTING OFFICE
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PROTEST IN THE MATTER OF REED SMOOT, SENATOR-ELECT FROM THE STATE OF UTAH.

WASHINGTON, D. C., *January 18, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Hopkins, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

TESTIMONY OF JAMES A. MINER—Recalled.

JAMES A. MINER, having previously been duly sworn, was examined and testified as follows:

Mr. VAN COTT. Mr. Miner, you were on the stand the other day?

Mr. MINER. I was.

Mr. VAN COTT. I call your attention to this question which Mr. Tayler asked you:

"Mr. TAYLER. But if that law, upon which government is based, is violated, upon the proclaimed reason that the law, as to that party, is invalid, or rather that God permits that violation, that God will damn him if he obeys that law, if he conforms to the customs of society in respect to such matter, do you not understand that that is infinitely deeper seated in its menace to the Government and society than the mere violation of law as we see it every day everywhere?"

"Mr. MINER. I do not see very much difference."

I now ask you whether you are satisfied with your answer, when you come to read over the question in type?

Mr. MINER. I am not. I misunderstood the scope of the question, and applied it to the matter of punishment rather than to the proposition as there presented.

Mr. VAN COTT. How do you wish to answer the question?

Mr. MINER. Yes.

Mr. VAN COTT. That is all.

The CHAIRMAN. Have you any questions, Mr. Tayler?

Mr. TAYLER. I had asked you quite a number of questions, had I not, prior to that along the same line, making the distinction between mere immorality, mere violation of the law, and violation coupled with the claim that he had a right to violate it?

Mr. MINER. You asked me one or two questions on that subject.

Mr. TAYLER. That is all.

TESTIMONY OF JAMES E. TALMAGE.

JAMES E. TALMAGE, being duly sworn, was examined and testified as follows:

Mr. WORTHINGTON. What is your age?

Mr. TALMAGE. I am 42.

Mr. WORTHINGTON. And your residence?

Mr. TALMAGE. Salt Lake City, Utah.

Mr. WORTHINGTON. How long have you lived there?

Mr. TALMAGE. In Salt Lake City since 1888. In Utah since 1876.

Mr. WORTHINGTON. Where were you born?

Mr. TALMAGE. In England.

Mr. WORTHINGTON. When did you come to this country?

Mr. TALMAGE. In the year 1876.

Mr. WORTHINGTON. Where did you live in Utah between 1876 and 1888?

Mr. TALMAGE. In Provo City, Utah County.

Mr. WORTHINGTON. Are you a Mormon?

Mr. TALMAGE. Yes, sir; I am, sir.

Mr. WORTHINGTON. And have been since when?

Mr. TALMAGE. Since my birth.

Mr. WORTHINGTON. Are you a polygamist?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. Have you ever been?

Mr. TALMAGE. Never.

Mr. WORTHINGTON. Have you any position in the church, or are you a lay member?

Mr. TALMAGE. I am a lay member in the sense of holding no position of authority or local control. I am, however, a member of the Sunday school board, having general supervision over Sunday-school matters throughout the church.

Mr. WORTHINGTON. How long have you had that position?

Mr. TALMAGE. Three or four years past.

Mr. WORTHINGTON. Are you the author of the book called "The Articles of Faith," which has been referred to here?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. In what way did you prepare that book; by what authority; and what was done in the way of giving it authenticity?

Mr. TALMAGE. I had been requested by the presidency of the church to prepare a work or works dealing with the doctrines of the church, and, after consultation, had agreed to undertake the work, and thereupon received a written appointment to that effect.

Before the work was really begun, before it had passed beyond the stages of making plans and drawing outlines of the ground to be covered, I was asked to give a course of lectures on the doctrines of the church before a large class of students; and then it was decided by myself, primarily, with the consent of those who had appointed me to do the other work, to combine the two purposes and to deliver the lectures in such a way as to make the lectures take the place of the chapters in the proposed book.

Mr. WORTHINGTON. After the book was prepared, was anything done in the way of submitting it to the church or anybody representing the authorities of the church?

Mr. TALMAGE. The lectures were submitted at my own instance, and in accordance with my own request a committee was appointed to examine the same. This committee was appointed by the first presidency, and it passed upon the substance of the lectures or of the book in this way: The committee undertook to decide whether the views there presented were my own alone, or whether they were in accord with the generally accepted doctrines of the church. The book was then published by the church: not by myself.

Mr. WORTHINGTON. And that committee was composed of Elders Francis M. Lyman, Abraham H. Cannon, and Anthon H. Lund, Elder George Reynolds, Elder John Noeholson, and Dr. Karl G. Maeser?

Mr. TALMAGE. Yes.

Mr. WORTHINGTON. The preface to the work as published shows the facts about that?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Are you the author or compiler of any other of the church books? Let me ask you particularly about the Pearl of Great Price. Have you had anything to do with the revised edition of that work?

Mr. TALMAGE. I made the revision. The last edition of the Pearl of Great Price, one of the standard works, as it now appears, has been revised by me in this way: The matter has been compared with the original manuscripts, and the division into chapters and verses, and the references given are my own.

The CHAIRMAN. Doctor, right at this point, before you pass from this work on The Articles of Faith, the title page, I suppose, expresses the fact when it says "Written by appointment and published by the church?"

Mr. TALMAGE. Yes, Mr. Chairman; the title page is not my composition.

The CHAIRMAN. But that is correct, as a matter of fact?

Mr. TALMAGE. That expresses the truth.

The CHAIRMAN. Excuse me, Mr. Worthington.

Mr. WORTHINGTON. Certainly. [To the witness.] Have you otherwise than in the preparation of these books made a special study of the matter of the faith and doctrines of the church to which you belong?

Mr. TALMAGE. Yes, sir; I may say that I have been a student of the doctrines of the church and a teacher of the same in the schools of the church for many years.

Mr. WORTHINGTON. Have you at any time held any office in the church?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. What offices?

Mr. TALMAGE. I have been a member of a high council, and officiated in that position for a number of years.

Mr. WORTHINGTON. Of what stake?

Mr. TALMAGE. Of what was then known as Utah stake, covering what is now known under three names, constituting three distinct stakes.

Mr. WORTHINGTON. During what period did you hold that office?

Mr. TALMAGE. I think I became a member of the high council of Utah stake in 1884, or thereabouts, and remained in that position

until I changed my place of residence, withdrawing from the stake and moving into Salt Lake stake. I have held other offices in ward and stake organizations.

Mr. WORTHINGTON. What are they?

Mr. TALMAGE. I have officiated as ward teacher, under the direction of the bishopric, years ago, and was a member of the stake superintendency of Sunday schools in Utah stake, and was for a time the stake superintendent of religion classes of Salt Lake stake—that is, in the old Salt Lake stake, covering what is now covered by six separate and distinct stakes.

Mr. WORTHINGTON. When you were a member of the high council of Utah stake, you resided at Provo?

Mr. TALMAGE. Yes, sir; I did.

Mr. WORTHINGTON. Who was the president of that stake at that time.

Mr. TALMAGE. The president was Abraham O. Smoot, the father of Senator Smoot.

Mr. WORTHINGTON. I wish to ask you, in the first place, to state for our benefit what may be found, perhaps, scattered more or less through the pages of this record, the facts as to the organization of your church as an administrative body from the president down. Perhaps the better way would be to begin at the bottom. I think we have learned here that you are divided into wards, and each ward has two teachers?

Mr. TALMAGE. I wish the reporter would repeat the last part of the question.

The reporter read as follows:

“I think we have learned here that you are divided into wards, and each ward has two teachers.”

Mr. TALMAGE. That is not a correct statement of the fact.

Mr. WORTHINGTON. Very well; what is the fact?

Mr. TALMAGE. Territorially the church is divided into stakes, and each stake into wards. Each ward is provided over by a bishopric, consisting of a bishop and two counsellors. Subject to the direction of the bishopric are the holders of the lesser or Aaronic priesthood in that ward. Some wards have from twenty to a hundred teachers at work. The number is not limited to two. The teachers are called without limits as to number, just as the demands of the ward work may require.

The stake is presided over by a presidency, consisting of three high priests, of whom one is known as the president. The others are known as his counsellors in the stake. Assisting the stake presidency, particularly in matters of judicial investigation, is a body known as the high counsel composed of twelve high priests. The high counsel, therefore has the status of a stake organization.

Now, in addition to these, there are certain officers of the church known as the general authorities of the church. Their jurisdiction is not limited by stake or ward boundaries.

The presiding quorum among the general authorities, and therefore the presiding quorum over the church as a whole, is that known as the first presidency of the church, consisting likewise of three high priests, the first of whom is known as the president of the church. The others are known as his counsellors. But the three are also spoken of as the three presidents of the church.

The quorum or organization next in authority is that known as the counsel of the twelve apostles, consisting of twelve men, who are called and ordained to the apostleship.

Next to this quorum stands the quorum known as the first quorum of the seventies. There are many quorums of seventy in the church and each is presided over by a counsel of seven known as the presidents of that quorum. But the seven presidents of the first quorum exercise supervision over all the other quorums, and therefore the first seven presidents of the seventies, as they are called, constitute a quorum with general jurisdiction and authority throughout the church, as far as the seventies are concerned; and this quorum may be called the third in the order of rank among the general authorities of the church.

The CHAIRMAN. Right there, if it will not interrupt you, I have never been entirely clear what you meant by a quorum of 70.

Mr. TALMAGE. They are bodies of men who have been ordained to the particular grade of the priesthood known as that of the 70, and each body, when complete, consists of 70 members, of whom 7 are the presidents. Each quorum of 70, therefore, may be said to consist of 7 presidents and 63 other members.

The CHAIRMAN. Then a quorum of the seventies means a body, when full, of 70 people?

Mr. TALMAGE. That is true, Mr. Chairman; and the name and organization are patterned after the brief account given us in the Jewish Scriptures to the effect that after the Saviour had commissioned his apostles and sent them out he sent out 70 others also.

The CHAIRMAN. I simply wanted to know the meaning of it.

Mr. TALMAGE. Resuming my answer, then, I would say that in addition to these three quorums the general authorities of the church embrace also the presiding patriarch, who acts alone without counselors, and the presiding bishopric, consisting of the president bishop and two counsellors.

I stated that the general quorums stood in the order of their rank or authority as named—first, the first presidency; second, the quorum or council of the twelve apostles, and, third, the first quorum of the seventies, represented by their seven presidents.

It should be added that these three quorums are of equal authority when any one of them is called to act as the presiding quorum of the church. If the quorum of the first presidency becomes disorganized, and it would be disorganized through the death, resignation, or removal from office of the president, then the next quorum, or that of the twelve apostles, steps forward, invested with all the powers of the first presidency, and their actions would be in all respects equally binding with the actions and decisions of the first presidency if said first presidency was then operating.

The same remarks would apply to the first quorum of the 70, though no one of these quorums can act as the presiding quorum of the church if another quorum of higher rank be acting.

Mr. WORTHINGTON. Has it ever happened that the first presidency and the quorum of apostles have both been disorganized and unable to act, so that the quorum of 70 had to act as the supreme authority in the church for the time being?

Mr. TALMAGE. I think that has never occurred in the church.

Mr. WORTHINGTON. You have told us about this organization. 1

wish you would tell us something about the respective duties and powers of these organizations, especially as it may bear upon the duties and powers of the apostles.

Mr. TALMAGE. The first presidency, as I have stated, is composed of three high priests, who are known as the presiding high priests over the church. This quorum has general direction of all church affairs throughout the world.

The quorum of apostles has no jurisdiction as a quorum, nor has any member—that is, any individual apostle—any jurisdiction personally in the organized stakes and wards of the church while the first presidency is acting, except as the individual apostle or the quorum may be directed to take charge and exercise supervision for the time being in any part. In other words, the quorum of apostles is not a quorum of local presidency in any sense of the term, and the apostles operate in the organized stakes and wards of the church as teachers and preachers without any authority at all in the matter of enforcing any command or counsel or requirement. Indeed, they have no authority to make or to enforce such, if it were made, unless they act, as I said, by special appointment as representatives of the first presidency. As a representative, by special appointment, of the first presidency, any high priest could act, if so called. But the apostles have a specific work that is required of them.

Mr. WORTHINGTON. Now, what is that?

Mr. TALMAGE. That is the work pertaining to missionary labor, particularly outside the organized wards and stakes.

Mr. WORTHINGTON. Throughout the world?

Mr. TALMAGE. Throughout the world—in what may be called the outlying branches of the church.

Mr. WORTHINGTON. And in that I believe they are aided by the seventies?

Mr. TALMAGE. Yes, sir. They call the seventies to their assistance as they may require.

Perhaps I should add, if I may be allowed, that while their specific duties are prominent in the outlying branches of the church they are operating under the direction of the first presidency in the organized stakes and wards, as occasion may permit.

Mr. WORTHINGTON. Their principal duty is that of missionarie outside of organized stakes?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. But they, or any one of them, may be designated by the president to take charge of any particular matter for the presidency within the organized stakes?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. I perceive that you have a similarity of organization running through your different bodies of authority. The bishop has his two counselors, the president of a stake his two, and the president of the church has his two counselors?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Are those counselors of equal authority with the officers with whom they are associated, or do they act merely in an advisory capacity?

Mr. TALMAGE. They act in an advisory capacity. The first counselor, for example, would be without authority practically if the bishop or the president to whom he was a counselor were present;

but in the absence of the bishop his first counselor is the bishop, or the acting bishop. In the absence of the president of the stake, his first counselor is the acting president of the stake, and in the absence or during the disability of the president of the church, if he be still living and in office, the first counselor is the acting president of the church.

Mr. WORTHINGTON. But when the bishop or the president of the stake or the president of the church is present and acting the others simply act in an advisory capacity, and the officer himself is supreme withing the scope of his powers?

Mr. TALMAGE. That is strictly correct.

Mr. WORTHINGTON. Now as to the apostles. What authority, if any, have the apostles to direct the president or the presidency in their work?

Mr. TALMAGE. Absolutely none.

Mr. WORTHINGTON. Suppose the president should call in the apostles for consultation about some church matter, and the apostles were all to advise a certain course to be pursued, would that be binding upon him?

Mr. TALMAGE. In no sense.

Mr. WORTHINGTON. He could act just as he pleased, without regard to that?

Mr. TALMAGE. Very true, and he does so act.

Senator OVERMAN. Have the apostles any authority over things temporal as well as spiritual?

Mr. TALMAGE. The apostles have no authority at all in the organized stakes and wards of the church, unless they are appointed especially for some particular inquiry, work, or investigation by the first presidency.

Senator OVERMAN. Has the first presidency any authority in things temporal?

Mr. WORTHINGTON. I was going to ask him as to that point.

Senator OVERMAN. Excuse me.

Mr. WORTHINGTON. I am going to ask him all about that.

Of course, if the apostles have no authority as a body, a single apostle would much the less have any.

Mr. TALMAGE. Certainly. If an individual apostle be appointed to a special mission, that is his mission.

Mr. WORTHINGTON. I understand. But neither a single apostle nor the whole body of the apostles would have any control over the president in regard to anything within the scope of the powers of the president, except to advise him.

Mr. TALMAGE. That is true. The apostles as a body have no authority whatever while the first presidency is in an organized and acting condition.

Mr. WORTHINGTON. Now, I should like to ask you something next about the courts of your organization. What are those courts?

Mr. TALMAGE. In every ward, as stated, there is a presiding body known as the bishopric. The bishop and his two counselors are charged with the care of the members of that ward in church matters, and by and with the assistance of their teachers they try to keep in close touch with the people of the ward individually and as expressed in the terms of the revelation, which is regarded as the law of the church on that matter, they try to see that there shall be no iniquity

in the church. If there be such iniquity, any hard feeling manifested between members of the church, or any charge made by one against another, they try conciliatory methods of adjusting those matters. If they fail, a bishop's court is convened, consisting of the bishop and his two counselors, then sitting as a church court—an ecclesiastical court.

The accused is served with a notice of the charge against him and is asked to appear, and a thorough investigation is held and a decision rendered.

This bishop's court may be regarded, and in fact is, the first or lowest of the courts commonly called the church courts.

Mr. WORTHINGTON. Before you leave that subject, let me ask you a question. Do the counselors, when they sit with the bishop as a court, have equal power with him, and can the two counselors outvote the bishop when sitting as a court?

Mr. TALMAGE. In no organization of the church are there two officers with equal power. The bishop, if he wishes, may consult his counselors, but the decision must be rendered by the bishop, and not by his counselors. He may, as I say, consult them and ask an expression of their opinion, and doubtless would do so, but the decision is his, and not the decision of the bishopric in such a trial.

Mr. WORTHINGTON. Proceed with the next tribunal in order.

Mr. TALMAGE. The next higher of the church courts is that known as the high council, consisting of 12 properly called and ordained high priests, constituting that council in each stake, presided over by the three presidents of the stake, or the presidency of the stake. The high council in each stake has powers of original as well as appellate jurisdiction. It may begin an action from the first, if the complaint be properly filed, but usually the council acts only as an appellate court.

If after a decision has been rendered by the bishop's court in any ward either of the parties is dissatisfied, he may take an appeal by giving written notice to the clerk of the high council, said appeal being to the high council. And the high council will then examine the transcript of the record which the bishop's court has been required to furnish, and will decide whether a new trial shall be held or whether a review of the evidence simply will suffice.

Mr. WORTHINGTON. Do they ordinarily hear the case anew, have the witnesses brought before them, or do they decide the case on the transcript of the record as made below?

Mr. TALMAGE. In the majority of cases they try the case anew; in by far the majority of cases. The decision, after the trial has been held, is rendered by the president of the stake.

Mr. WORTHINGTON. Let me ask you a question right here. Besides his two counselors he has the twelve composing the high council?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Is he bound by the action of the majority of those councilors and assistants, or may he go against the decision of all of them?

Mr. TALMAGE. He is bound to this extent. After each member of the council has been given every necessary and proper opportunity for expressing his views, and after the parties in the case have expressed their views and the president has consulted with his coun-

selors. a decision is announced as the decision of the president. If a majority of the council of 12 men refuse to sustain that, it falls.

Mr. WORTHINGTON. After the decision by the high council, what is next, or what may be next?

Mr. TALMAGE. The case may then be carried directly to the first presidency of the church.

Mr. WORTHINGTON. Before you proceed, in any case does an appeal lie, or any sort of action, to or by the apostles?

Mr. TALMAGE. To the apostles?

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. Oh, in no sense. The apostles are not in the line of local officers or of organizations having any local jurisdiction at all.

Mr. WORTHINGTON. And neither are the seventies?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. Proceed, then.

Mr. TALMAGE. If an appeal be taken from a decision of the high council, as I say, it is taken to the first presidency. The transcript of the proceedings is then furnished, and a careful examination made. The first presidency, sitting as the highest court of the church, certainly would have powers of original jurisdiction, but I have never known them to be so exercised.

Mr. WORTHINGTON. Does the court, composed of the first presidency, when hearing cases on appeal from the high council of the stake, ever hear the witnesses, or hear the case anew; or does it decide it on the transcript of the case in the lower court?

Mr. TALMAGE. Generally they decide it on the transcript, though witnesses may be called; that is to say, if witnesses are called, both parties are notified to be there at the time. If there be any part of the evidence that is possibly in an unsatisfactory or obscure condition, witnesses having given testimony upon that point may be called in the presence of the parties.

Mr. WORTHINGTON. Is that a usual course, or is it infrequent?

Mr. TALMAGE. From experience I am not able to say, as there are very few appeals of that kind pressed to an actual trial and decision by the first presidency.

Senator OVERMAN. Are the plaintiffs and defendants allowed to be represented by counsel in any of those courts?

Mr. TALMAGE. Not in the usual way, Mr. Senator. They are there themselves, and may have their witnesses present, and if any request is made for counsel—not necessarily legal counsel in the usual acceptation of the term—it would be allowed. I have witnessed many instances of that kind in my own experience.

Senator OVERMAN. Who generally represents them? Do lawyers generally represent the parties?

Mr. TALMAGE. No. One purpose of the church courts is to steer clear of lawyers.

Senator OVERMAN. They are allowed to have some representative of the church?

Mr. TALMAGE. Yes, sir. If there be any member or officer of the church whom they would like to have represent them, they would certainly be given that opportunity. They would have a right to demand it, in fact.

Mr. WORTHINGTON. Is it not the usual thing, when the case is before

the high council of a stake, to have some member of the high council specially delegated to represent one of the parties?

Mr. TALMAGE. Oh, indeed, sir. I have not given the details of the trial in any sense; but since you refer to it, I will say that when a high council is organized as a court to attend to the details of a trial, six of the twelve, determined by lot, become the counsel of the accused, and six become the counsel of the plaintiff; and from among those six one is selected on each side as a speaker, a spokesman for the others, who, while having no greater authority than the rest, is the one who would speak, unless there would be good reason for others speaking.

Mr. WORTHINGTON. I presume a man is not excluded from being a high councillor, or holding any other office in the church, because of the fact that he is a lawyer?

Mr. TALMAGE. No. We have some lawyers as members of high councils in the different stakes, and with care we find they do pretty well.

Mr. WORTHINGTON. What can legally be done, according to the doctrines of the church, by those courts?

Mr. TALMAGE. They have power to investigate any charge of un-Christianlike conduct against any member of the church, or of heresy—that is to say, the teaching of false doctrines that would be detrimental to the church; and the limit of their power to inflict penalties is removal from the church—excommunication from the church.

Mr. WORTHINGTON. They do not have any power to require either of the parties to do anything?

Mr. TALMAGE. Only to this extent—that if a man has been found guilty of defrauding another, he would perhaps be required to do all in his power to rectify that error to his brother or stand excommunicated.

Mr. WORTHINGTON. And he could take his choice?

Mr. TALMAGE. Yes, sir.

Senator OVERMAN. In these lower courts are juries ever called in to ascertain the facts where they are disputed?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. You have examined the record in this case, or most of it, I presume, Doctor?

Mr. TALMAGE. Parts of it.

Mr. WORTHINGTON. Have you seen the record introduced a few weeks ago here, in a case in which a man named Leavitt accused a member of the church, a woman, of having defrauded him in respect of a land transaction?

Mr. TALMAGE. Yes, sir; I have read that part of the record.

Mr. WORTHINGTON. And the proceedings resulted in her being expelled from the church because she would not convey the land in question to Leavitt?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. What would you say as to whether in the form the proceeding took and in the result it was or was not within the powers of the tribunals that were acting?

Mr. TALMAGE. I should say that the record in the case, as it appears, is very unusual. In fact, I know of no parallel or precedent for it. The decision there is given in the form of a requirement that a deed

pertaining to certain lands shall be executed. In my experience in the church as a high councillor and otherwise, I have understood that the church courts would not consider any question in which land title was concerned, because their decisions could not be enforced.

In this particular case, if I read the record correctly, the base or basis of the charge is that the accused had been guilty of fraud, and that seems to have been proved in the course of the trial, at least to the satisfaction of the court.

The usual way in which the decision would have been given would be this: That the accused should be required to do all within his or her power to rectify that fraud and to counteract the effect of that fraudulent action. But in this case they pointed out how that should be done at once by requiring the land title to be transferred. I say it is exceptional and outside the ordinary rules of procedure in church courts, and, in my judgment, was really beyond the designated and well-defined powers of church courts.

Mr. WORTHINGTON. I wish you would look at this package of letters which I show you and tell me whether you know the signatures to them; whether you can identify them as being genuine.

Mr. TALMAGE (after examining letters). The package you hand me consists of letters sent out from the office of the first presidency of the church, signed in some cases by the members of the first presidency, in other cases by one of their secretaries. All of these signatures I recognize and know to be genuine. But there are letters here addressed to the first presidency from other parties whose signatures I do not recognize.

Mr. WORTHINGTON. I offer these letters in evidence. If there is any objection to those where you can not identify the signature attached, I will not read them. The letters are in the form of instructions from the presidency to the judicial tribunals as to what they may and may not do.

Mr. TAYLER. What is the date?

Mr. WORTHINGTON. The date of the first one is January 11, 1905. It is a letter from Mr. Gibbs, the secretary, to Senator Smoot, inclosing these papers. I do not care to offer that, if there is any objection to it, although I have no objection to its going in.

OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH OF

JESUS CHRIST OF LATTER-DAY SAINTS.

P. O. Box B, Salt Lake City, Utah, January 11, 1905.

Senator REED SMOOT, *Washington, D. C.*

DEAR SENATOR: I send you by hand of Dr. James E. Talmage, a witness in the Smoot investigation, original copies of letters written by the first presidency of the Church of Jesus Christ of Latter-Day Saints at various times to individuals hereafter named on the subject of our church courts entertaining complaints for adjudication, all going to show that complaints involving questions of legal rights should not be tried by our church tribunals, but referred to courts of competent jurisdiction, with powers to enforce their decisions.

Failing to obtain two of the original letters, I have sent you the press copies instead, and will thank you to return all this correspondence to me when you are through with it.

Letter to Thos. E. Ricks and high council, November 7, 1895.

Letter to John A. Kidman, June 24, 1896.

Letter to E. D. Wooley, August 1, 1896 (press copy).
 Letter to President A. Hatch, April 26, 1897 (press copy).
 Letter to W. H. Seegmiller & Counsellors, December 8, 1897.
 Letter to O. B. Anderson, July 7, 1903.
 Letter to J. U. Stucki, March 25, 1902.

Yours, etc..

GEO. F. GIBBS, *Secretary*.

I now read a letter signed by Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, first presidency of the Church of Jesus Christ of Latter-Day Saints:

OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH OF
 JESUS CHRIST OF LATTER-DAY SAINTS,

P. O. Box B, Salt Lake City, Utah, November 7, 1895.

President THOS. E. RICKS and HIGH COUNCIL,

Bannock Stake of Zion.

DEAR BRETHREN: The appeal case of James Poulson *v.* Christian A. Christensen, originally heard before the bishop's court of the Basalt ward, and afterwards by the high council of the Bannock stake of Zion, has received our attention. There are many matters that can be rightfully considered by the church courts and decisions rendered thereon, but when matters relating to the boundary of lands and kindred subjects are in dispute we think it better that such differences should be settled by arbitration or, if necessary to secure the rights of either party, by the duly constituted courts of the land. The case of Poulson *v.* Christensen appears to hinge on just such a question, for if it could be decided exactly where the boundary line between the lands of these brethren lay there would be no difficulty in reaching a conclusion with regard to the other questions involved. We therefore suggest that the matter of dispute between these brethren be either settled by arbitration, or if an officer at the United States land office has the necessary authority, that he be requested to decide who is legally entitled to the strip in dispute.

We remain, your brethren in the gospel,

WILFORD WOODRUFF,
 GEO. Q. CANNON,
 JOS. F. SMITH.

*First Presidency of the Church of
 Jesus Christ of Latter-Day Saints.*

The next letter is dated June 24, 1896, and is signed by Wilford Woodruff and George Q. Cannon. I may say that it is not signed by Joseph F. Smith, because it covers the date, according to his testimony here, when he was in California:

"OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH OF
 JESUS CHRIST OF LATTER-DAY SAINTS,

"P. O. Box B, Salt Lake City, Utah, June 24, 1896.

"Elder JOHN A. KIDMAN, *Mendon.*

"DEAR BROTHER: Your letter of the 15th instant, describing the case which you have presented to Bishop Hughes and afterwards to President Orson Smith, has been received and considered."

The Orson Smith referred to there as president was president of a stake, I assume?

Mr. TALMAGE. I infer so.

Mr. WORTHINGTON. I resume the reading of the letter:

"Complaints have been made against us as a church, by those who are opposed to us, to the effect that we interfere with the laws of the land in our church courts, and they have attempted to prove that by doing this we were setting up authority above the authority of the Government. The case that you refer to is one of this kind, and we have given counsel to the bishops and the presidents of stakes to be careful and not attempt to enforce decisions against members of the church where the laws of the land were likely to be interfered with. As we understand by your letter, William Kidman, jr., and wife sold to Phillip J. Lord 10 acres of land and gave him a warranty deed for the same, and a right of way to the road through his (William Kidman, jr.'s) land, and this right of way had been used for over fourteen years. Now, if this statement be true, the law of the land will sustain Brother Lord, or whoever purchases his right, in the use of that right of way.

"The proper course to take in this case, as we view it, is for you to get the teachers of the ward, under the direction of the bishop, to present this matter to William Kidman, jr., and let them endeavor to arrange this matter amicably between you. If this will not do, and he refuses positively to comply with what the teachers decide is right, then you will be justified in carrying the case into court, and the law will sustain your right, and he can be dealt with afterwards for refusing to do what is right in this matter.

"You quote from the forty-second section of the Book of Doctrine and Covenants, eighty-seventh paragraph; but if you will read the eighty-fourth, eighty-fifth, and eighty-sixth paragraphs you will see that there are offenses which members of the church can be guilty of for which they are to be delivered up unto the law of the land. We can not, as a church, put ourselves in the position of using our church courts to enforce the laws or to set aside the laws or the decisions of courts. With a little reflection you can readily see that this would be dangerous. But if men who are members of the church act unjustly and trespass upon their neighbor's rights by the misuse of the law or by taking advantage we can deal with them. In a case like this of yours, however, it will be for the teachers to take hold of the matter first and see what they can do with William Kidman, jr., and use persuasion, mildness, and love to make him perceive the wrong which you allege he is guilty of.

"With kind regards, we remain,

"Your brethren,

"WILFORD WOODRUFF.

"GEO. Q. CANNON."

The next is a letter which the witness can not identify, from an officer of the church, sending up the paper which I read. I do not care about reading the letters of transmittal, although I should like to have them go in if there is no objection to them.

MENDON, UTAH, *January 9, 1904.*

President JOSEPH F. SMITH.

DEAR BROTHER: Inclosed please find the letter you desired me to obtain from Brother John A. Kidman. Brother Kidman is dead. His wife desires to have the letter returned when you are through with it.

Very truly, yours,

M. D. BIRD.

I now read a letter from George F. Gibbs, secretary, dated August 1, 1896, addressed to President E. D. Wooley:

AUGUST 1, 1896.

PRESIDENT E. D. WOOLEY.

DEAR BROTHER: Your favor informing the presidency of the disposition by your high council of the case of Sister Bouton was duly received. Since its receipt correspondence has been received at our office from Brother Warren Foote explaining Sister Bouton's position which led to a consultation with the church attorney in regard to the matter. It is the attorney's opinion that Sister Bouton, being a creature of the court, and under bonds as the administratrix of her deceased husband's estate, she could not arbitrate her case without first obtaining permission of the court to do so; and Brother Richards is of the opinion that the court will not permit her to waive any of her legal rights in this matter, and that she should be free to wind up the estate as the law directs. The first presidency see this matter in the light in which Brother Richards presents it, and they request that you write the parties (Sister Bouton and the Brothers Harris) to this effect, which will leave Sister Bouton free to act in this matter as she may be legally advised; and this will leave her in the position as though no arbitration proceedings had been taken. The presidency think you did very proper in not entertaining the case before your high council, and with the light reflected by this communication they take it for granted that you will readily see that Sister Bouton, however willing she might have been to resort to arbitration, was incompetent under the law governing her as administratrix to do so.

Your brother,

GEO. F. GIBBS, *Secretary*.

He was the secretary of the first presidency?

MR. TALMAGE. He was, and is.

MR. WORTHINGTON. The next is a letter signed by George Reynolds, secretary, dated April 26, 1897. Was he one of the secretaries of the first presidency at that time?

MR. TALMAGE. He was.

MR. WORTHINGTON. It is addressed to President A. Hatch, Wasatch stake of Zion. Where is that?

MR. TALMAGE. Wasatch stake is practically coextensive with Wasatch County, Utah.

MR. WORTHINGTON. I now read the letter.

APRIL 26, 1897.

PRESIDENT A. HATCH, *Wasatch Stake of Zion*.

DEAR BROTHER: I am directed by the first presidency to acknowledge the receipt of your favor to President Wilford Woodruff of 17th instant.

You are undoubtedly aware of the manner in which, in years past, prejudice was aroused against the church by the assertions made by our enemies that our church courts usurped the powers and position of the duly constituted courts of the land, and gave decisions with regard to property and other individual legal rights. The church courts can not give decisions to disturb any persons in their legal rights, but if a man uses those rights to the injury of his brother, he can be tried on his fellowship for unchristianlike conduct; a decision

in such a case only affecting his standing in the church is clearly within the jurisdiction of the ecclesiastical courts. Of course it is deemed desirable for various reasons to keep as many cases as possible, growing out of difficulties between brethren, out of the courts of law; and, where both parties are agreeable, arbitration is advised whenever it is not advisable to have the differences submitted to the church courts.

Your brother,

GEO. REYNOLDS, *Secretary.*

The next letter is dated December 8, 1897, and is addressed to President W. H. Seegmiller and counselors, Sevier stake of Zion, and is signed by Wilford Woodruff, George Q. Cannon and Joseph F. Smith. They then constituted the first presidency?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. The letter is as follows:

OFFICE OF THE FIRST PRESIDENCY OF THE
CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS,
P. O. Box B, Salt Lake City, Utah, December 8, 1897.

President W. H. SEEGMILLER AND COUNSELORS,

Sevier Stake of Zion.

DEAR BRETHREN: Brother Niels Frandsen has called upon us to represent a case in which he is interested in the town of Redmond, in your stake. It seems that there is some dispute between him and Brother A. P. Anderson, the bishop's counselor, as to the ownership of 22 acres of school land. Of course, we can not judge of the merits of the case by hearing only one side; but Brother Frandsen is quite willing to have the matter arbitrated, and we heartily approve of this method of settling difficulties between brethren, and would suggest to you that you use your influence to have this matter settled in this way, and save contention and bad feeling, as well as the expenditure of money.

Heartburnings, bitterness, and ill-feeling invariably attend lawsuits, whichever way they terminate, and we are desirous to stop litigation among the members of the church. There is a method which can be adopted under the law by which the decision of arbitrators can be entered on the court records and made legal. Will you be kind enough to give this case your attention, and see what can be done concerning it?

With kind regards, we are your brethren,

WILFORD WOODRUFF.

GEO. Q. CANNON.

JOS. F. SMITH.

I will ask Mr. Van Cott, is it true that in Utah you have a proceeding by which arbitration out of court may be made a decree of court?

Mr. VAN COTT. As to anything except title to real estate.

Mr. WORTHINGTON. The next is a letter signed by Joseph F. Smith, John R. Winder, and Anthon H. Lund, first presidency, dated July 7, 1903.

I want to say, Mr. Tayler, that there appears to have been at the end of the letter a piece of paper torn off, by which one of the words appears to have been obliterated. The letter from Andersen, the

bishop, which inclosed this, explains that apparent mutilation, but I can not read it unless you consent, because I am unable to prove by individuals here Andersen's handwriting.

The letter is on the official letter head of the first presidency, and is as follows:

OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH OF
JESUS CHRIST OF LATTER-DAY SAINTS,
P. O. Box B, Salt Lake City, Utah, July 7, 1903.

Bishop O. B. ANDERSEN, *North Morgan.*

DEAR BROTHER: This is in answer to yours of 28th ultimo, seeking information in relation to the authority of bishops' courts to try cases involving land disputes.

Before our lands were surveyed by the Government settlements had been formed and boundaries clearly established. After the survey was made it was found that, as a general thing, the lines of a quarter section would run through the lands of more than one settler; and in order that every man might have title to that which belonged to him, one of the interested parties would comply with the provisions of the law and obtain the title, and after doing this he would deed to the others such portions of the homestead entry as belonged to them; and it was not an uncommon thing for our church courts to settle disputes arising under those circumstances. But since the Government survey it has not been customary for church courts to entertain complaints involving the title to lands, and the same may be said with respect to water. All disputes involving legal titles must be adjudicated by courts of competent jurisdiction. The point we wish to make clear is this, that church courts must not undertake to deprive any of its members of their legal rights.

With President Young we hold that when any person secures title from the Government to land, part of which has been occupied and cultivated by others, he or she should respect the rights of such persons by being willing to deed to them the land they have improved, provided that they pay their share of the expenses incurred in securing the Government title, and also a fair remuneration to the pre-emptor or homesteader for the loss of his or her preemption or homestead right in proportion to the amount of land to which they are benefited.

Our people should be impressed with the necessity of securing title to their lands and with the fact that when they do not do this they run the risk of losing them.

A stake president is amenable to his bishop in a case of —— difficulty, just as any other member of the church would be.

Your brethren,

JOS. F. SMITH,
JOHN R. WINDER,
ANTHON H. LUND,
First Presidency.

Mr. TAYLER. What is the word? •

Mr. WORTHINGTON. I do not know what the word is.

Mr. TAYLER. I thought you said you had a statement in respect to it.

Mr. WORTHINGTON. The statement of the bishop is here. May I read it?

Mr. TAYLER. I do not care.

Mr. WORTHINGTON. This is the letter from the bishop to the president, transmitting the letter I have just read. The president at my request sent out to get the original letters in such cases as he could, and the bishops or other officers sent them in. This is the letter of transmittal:

OFFICE OF O. B. ANDERSEN,
SURVEYOR FOR MORGAN COUNTY,
Morgan, Utah, January 6, 1905.

President JOSEPH F. SMITH, *Salt Lake City.*

DEAR BROTHER: A communication from your secretary, Brother Gibbs, dated January 4, I have just received, requesting me to return a letter from the first presidency, dated July 7, 1904, on settlement of land titles.

I take pleasure in complying with your request, although I am quite sorry I have mutilated it. I was in a pinch for a slip and tore a piece off, however not destroying any of the writing.

While I have the copy there will be no need of returning the original.

Yours, very truly,

O. B. ANDERSEN, *Bishop.*

Mr. TAYLER. Does the letter say July 7, 1904?

Mr. WORTHINGTON. Yes.

Mr. TAYLER. You said 1903.

Mr. WORTHINGTON. The letter says "July 7, 1904." As a matter of fact the letter is dated July 7, 1903. That probably was a mistake in writing the letter to him.

I may say that Mr. Andersen made a mistake when he says he did not destroy any of the writing, as it turns out that one word is obliterated.

Mr. TAYLER. Do you not know what the missing word is?

Mr. WORTHINGTON. I do not. I believe it is the word "personal."

Mr. TAYLER. I thought there was a press copy of it.

Mr. WORTHINGTON. No. We can telegraph and get it if it is important. I have no doubt it is the word "personal," judging from the context and the length of space occupied by it.

The next letter is dated March 25, 1902, and is signed by Joseph F. Smith, John R. Winder, and Anthon H. Lund, and is addressed to Elder J. U. Stucki, Paris. Where is Paris?

Mr. TAYLER. In Idaho.

Mr. TALMAGE. Paris is in Idaho.

Mr. WORTHINGTON. The letter is as follows:

OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH
OF JESUS CHRIST OF LATTER-DAY SAINTS,
P. O. Box B, Salt Lake City, Utah, March 25, 1902.

Elder J. U. STUCKI, *Paris.*

DEAR BROTHER: Your communication of the 22d instant duly received. In answer we would say that in the absence of the regular appeal papers we are unable to pass upon the decision of the high council in the case in which yourself and Brother Allred are parties. But we would suggest for the consideration of all the parties concerned that it is against the rule and policy of the church for our

ecclesiastical tribunals to undertake to adjudicate cases involving legal titles, but rather to leave this class of cases for the courts of the land to deal with. It would appear to us from the information gathered from your communication that all that would be necessary to determine the question of dispute between Brother Allred and yourself would be an official survey.

With kind regards, your brethren,

JOS. F. SMITH,
JOHN R. WINDER,
ANTHON H. LUND.
First Presidency.

Then there is a letter of transmittal:

PARIS, IDAHO, *January 7, 1905.*

President J. F. SMITH.

DEAR BROTHER: Inclosed please find the letter asked for in your favor of the 4th, which I received at 6 o'clock last night. I hope the letter will accomplish the object for which you desire it. When it has accomplished its mission I will be pleased to be favored with its return.

Praying that the blessings of the Lord may attend every effort in battling for truth and right, I am,

Your brother,

JOHN U. STUCKI.

Now, Mr. Talmage, in your familiarity with these things, and from your study of the doctrines of the church and from your experience as high counselor, where these matters come before you, what would you say as to whether the letters I have read represent the true theory and the rights of these court tribunals?

MR. TALMAGE. Those letters properly represent the theory, as you call it, and certainly the practice followed in those tribunals, according to my experience.

SENATOR OVERMAN. I wish to ask a question here. You speak of church courts. Do you have any body of the church which has authority to make laws and rules and regulations for the church?

MR. TALMAGE. There is nobody with any such specific duty, Mr. Senator.

SENATOR OVERMAN. Who makes the rules and regulations, the laws for the church?

MR. TALMAGE. The laws of the church are revelations, which are embodied in the standard works of the church. The rules of the church are made as occasion may require; if for local application, by the local authorities; if for general application, by the general authorities. No rule, however, is of binding effect until it has been adopted by the people to whom it applies, and when thus adopted it is of force and equally binding with all the laws of the church.

SENATOR OVERMAN. The referendum?

MR. TALMAGE. Yes, sir; the referendum, in a sense.

MR. WORTHINGTON. That is, if a bishop wishes to make a rule that shall govern in his bailiwick, he must submit it to the people of his ward, in conference. Is that right?

MR. TALMAGE. Yes; if he wishes a rule to be promulgated among the people of his ward he must submit it to them, unless, of course, it be some ruling on a minor matter which clearly comes within his jurisdiction. For example, he has charge of the ward house. If

he decides to rearrange the furniture he would not have to submit that proposition to the people.

Mr. WORTHINGTON. Oh, no; But if he wishes to make any rule of general application binding upon the people in his ward he must first submit it to the people of that ward?

Mr. TALMAGE. Very true.

Mr. WORTHINGTON. And so of the stake?

Mr. TALMAGE. And so of the stake.

Mr. WORTHINGTON. And so of the presidency?

Mr. TALMAGE. And so of the church in general, if the rule is of general application.

Mr. WORTHINGTON. There is one thing to which I should like to go back for a moment now, because something has been said here about it in the record; that is, whether in any case there is an appeal, and if so, in what way, from a decision of the first presidency, when the matter has been taken up before it?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. What is that?

Mr. TALMAGE. An appeal would lie from the first presidency to the assembled quorums of the priesthood; that is to say, the church as a body is the supreme court before which the cases involving church

The assembled quorums or organizations of the priesthood may be said to be in session at every general conference of the church. But, of course, in the same assembly with the quorums of the priesthood standing and church rights may be tried.

under those conditions are the lay members of the church, and questions are submitted to this general assembly of the church at every recurring semi-annual conference.

Mr. WORTHINGTON. As a matter of fact, I believe there has been no case in which there has been an appeal taken from the decision of the first presidency and submitted to the presiding quorums only?

Mr. TALMAGE. I call to mind no instance of record in which there has been an appeal formally taken from the decision of the first presidency, but I call to mind instances of record in which the announced decision of the first presidency in the matter of nominations has been entirely set aside by the assembled quorums of the priesthood.

Mr. WORTHINGTON. What are those instances?

Mr. TALMAGE. There is a case in which three nominees for the apostleship were presented by Joseph Smith, the first president of the church, and were voted down by the assembled people, the quorums of the priesthood. I think I can give you the reference.

Mr. WORTHINGTON. I was going to ask you to give a reference to any authentic work where that matter is described.

Mr. TALMAGE. The cases to which I refer are those of Lyman E. Johnson, Luke S. Johnson, and John Boynton, who were rejected by the people assembled in conference at Kirtland.

Mr. WORTHINGTON. Ohio?

Mr. TALMAGE. Ohio, in 1837. The record will be found in volume 16 of Millennial Star, on page 56. I would add, however, that in that particular volume you will find a typographical error, that book giving the date 1827, which was long before the church was organized.

Mr. WORTHINGTON. The church was organized in 1830, I believe?

Mr. TALMAGE. Yes, sir; and the date of the publication shows that 1837 is intended.

That, however, will be found republished by authority in volume 2, of the History of the Church, page 509, which book is at your disposal.

Mr. TAYLER. Whose history of the church? Is that the only title you give it?

Mr. TALMAGE. It is known as the History of the Church, two volumes of which are already in circulation, and the third volume of which is now being bound, which is published by the church, compiled by committees appointed by the authorities of the church, and intended to be a publication that shall go on as the church goes on.

Mr. TAYLER. Are there copies of it here?

Mr. TALMAGE. I do not know, sir. I have a copy of volume 2 with me, if you wish it.

Mr. TAYLER. How long has it been published?

Mr. TALMAGE. Volume 1 was published, if I remember correctly, about three years ago; two or three years ago, and the publication is continuing at intervals. This volume [exhibiting] is the one to which I refer, viz, volume two.

Mr. TAYLER. To how late does this second volume go?

Mr. TALMAGE. The second volume brings the history down to the close of the year 1837.

Mr. TAYLER. So that it is quite a voluminous work in its purpose?

Mr. TALMAGE. Yes, sir; the plan is an extensive one.

Mr. WORTHINGTON. Is there any other illustration which occurs to you of the power of the people to overrule the president?

Mr. TALMAGE. Yes, I call to mind an instance of record in connection with the early events of church history, in the case of Sidney Rigdon, who was counselor to Joseph Smith, the first president of the church.

Joseph Smith desired to substitute some one else for Rigdon, inasmuch as Sidney Rigdon was neglecting his duties, according to the public statement made by Joseph Smith, and he presented another name, if I correctly remember as to the detail, but the people refused to vote for any one to take Rigdon's place, and Joseph Smith had to yield, and he did it in terms that showed very clearly his personal displeasure.

The incident to which I refer is described in a tract on Sidney Rigdon, published by Jedediah M. Grant.

Mr. WORTHINGTON. What page?

Mr. TALMAGE. Pages 15 and 16.

Mr. WORTHINGTON. What is the title of the work?

Mr. TALMAGE. The exact title I can not give, but the extract therefrom appears in a work now extant, the volume known as "Succession in the Presidency of the Church," by Brigham H. Roberts. I read from the second edition of "Succession in the Presidency of the Church," page 9: "On the occasion the prophet represented to the church that such had been the course of Sidney Rigdon that he considered it no longer his duty to sustain him as counselor."

Mr. TAYLER. What date, if you can give it, Doctor? When was this?

Mr. TALMAGE. At the October conference in 1843, according to this book.

I continue the reading:

"Hyrum Smith, however, pleaded the cause of his fellow-counselor, and so strongly urged the saints to deal mercifully with Sidney Rigdon that when the question of sustaining him was presented to the conference the saints voted in his favor. 'I have thrown him off my shoulders and you have put him on me,' said Joseph. 'You may carry him, but I will not.' And so confident was he that Sidney Rigdon would continue to fail in the performance of his duty that he ordained Elder Amassa Lyman to succeed him, both as counselor and spokesman. Some of the elders did not understand how Elder Lyman could be ordained to succeed Elder Rigdon, as the church had voted to try him another year. Elder Joseph Smith was requested to give an explanation. 'Why,' said he, 'by the same rule that Samuel anointed David to be King over Israel while Saul was yet crowned. Please read the sixteenth chapter of I Samuel.' Elder Smith's explanation, though short, proved a quietus to all their rising conjectures."

Mr. WORTHINGTON. Before we leave the subject of these trials, I wish you would, at this point, give us, so that they may go in the record, the sections of the Book of Doctrine and Covenants referred to in the letter of President Woodruff and Counselor Cannon to Elder Kidman of June, 1896. They say that the elder had quoted the forty-second section of the Book of Doctrine and Covenants, eighty-seventh paragraph. They asked him to read, in that connection, the eighty-fourth, eighty-fifth, and eighty-sixth paragraphs. Please read the four sections. They are short.

Mr. TALMAGE. The first paragraph mentioned is which?

Mr. WORTHINGTON. From 84 to 87, both inclusive.

Mr. TALMAGE. Section 42, beginning at paragraph 84, reads as follows:

"84. And if a man or woman shall rob, he or she shall be delivered up unto the law of the land.

"85. And if he or she shall steal, he or she shall be delivered up unto the law of the land.

"86. And if he or she shall lie, he or she shall be delivered up unto the law of the land.

"87. And if he or she do any manner of iniquity, he or she shall be delivered up unto the law, even that of God."

Mr. WORTHINGTON. Does that include the eighty-seventh?

Mr. TALMAGE. That is the end of the eighty-seventh.

Mr. WORTHINGTON. Very well. Perhaps you have already sufficiently answered what I am about to ask you, but in order to make it clear I will ask you this question. You have spoken of the power of church tribunals to excommunicate a person and drop him from the church after trial. Is there any power on the part of anybody to put a man out of the church without a hearing, without a trial, or without an opportunity for a hearing?

Mr. TALMAGE. No, indeed, sir.

Mr. WORTHINGTON. Any one of the quorums, I believe, can drop a member from the quorum?

Mr. TALMAGE. After proper trial any quorum may disfellowship one of its members.

Mr. WORTHINGTON. But that leaves him still a member of the church?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. What are the accepted standard works of the church which bind all of its members?

Mr. TALMAGE. The standard works are four in number—the Bible, King James version or translation; the Book of Mormon; the Doctrine and Covenants, and the Pearl of Great Price.

Mr. WORTHINGTON. We have been treated to extracts from a number of books by Orson Pratt and Brigham H. Roberts and others. Will you tell me what is the effect or binding operation of those works, or what is said in them, upon the church or any member thereof?

Mr. TALMAGE. Nothing that is said in any of those works, or works of that kind, has any binding effect upon the people as a whole or upon any individual. They are to be regarded as the expressions of the authors.

Mr. WORTHINGTON. Is it not true that, in order to have such binding effect, any work or instrument that purports to set forth the doctrines of the church must be submitted to a general conference and accepted by it?

Mr. TALMAGE. That is true, sir. And the four weeks designated by me as standard works have been so submitted and so adopted by the vote of the people as their guide in faith and practice.

Mr. WORTHINGTON. Now, as an illustration of that, what happened when you revised and divided into chapters, and so on, the Pearl of Great Price, one of the four standard works?

Mr. TALMAGE. The changes made in that work, while not in any sense a change in the matter, except as to the correction of typographical errors and the omission of certain parts now appearing in the Doctrine of Covenants, made it necessary that that book should be readopted by the vote of the assembled quorums in conference, and the book was presented to the people at one conference, with an account of the alterations in arrangement, and they were told that at the next conference, six months later, they would be asked to vote upon it.

They were invited to examine it in the meantime and to compare it with the earlier editions; and at the succeeding conference, six months later, the people voted to readopt the Pearl of Great Price, or to adopt the Pearl of Great Price in its revised form, as their guide in faith and doctrines, and to give it place, as before, among the standard works of the church.

Mr. WORTHINGTON. Now, in further illustration, let me ask you about this work which you are the author—the Articles of Faith. You say you were authorized by the high church officials to prepare such work. You did give these lectures and you incorporated them into this volume, and it was approved by a committee of high officers of the church, appointed by the presidency. Is that work, or anything in it, binding upon any member of your church?

Mr. TALMAGE. Oh, in no sense.

Mr. WORTHINGTON. It would have to be submitted to the church conference and adopted by them before it would bind any Mormon?

Mr. TALMAGE. Most assuredly.

Mr. WORTHINGTON. Is it not true that a charge of apostasy was made against you for something in that work?

Mr. TALMAGE. No charge was actually made, though I was notified I would be so charged. But as one of the church officials had already

expressed himself as holding the views set forth by myself in that work, and he being very much larger game, he was singled out first, and as the proceedings against him ended in a disappointing way, I was never brought to trial.

Mr. WORTHINGTON. As another illustration, we have heard something about Orson Pratt and his works. Has there been any action taken in reference to these works in the way of submitting them to the people, or in any other way?

Mr. TALMAGE. No, sir; not in the way of adoption, but I find instances of record in early church history of the people being warned repeatedly against Orson Pratt's publications, or certain of them—

Senator OVERMAN. Do not the missionaries take them around with them through the country?

Mr. TALMAGE. Excuse me, Senator, until I finish my answer.

Senator OVERMAN. Certainly.

Mr. TALMAGE. Because they were not in accord with the doctrines of the church, set forth in the standard works.

Senator OVERMAN. I ask you—Did not the missionaries carry Orson Pratt's works with them and have them on sale throughout the country?

Mr. TALMAGE. I do not know what the practice of missionaries may be as to putting books on sale. They carry many books with them.

Senator OVERMAN. Do they not carry these books?

Mr. TALMAGE. I do not know, sir. I would infer that in all probability they do, because some of the smaller church publishing houses—called church publishing houses because connected with church organizations in a way, but not under the immediate control of the general authorities of the church—have continued to publish some of these books. Many of Orson Pratt's works are of great value. I take it; that is to say, they present the views of a man who was a careful student, and one whose utterances are worthy of consideration.

Senator OVERMAN. He understood the doctrines of the church pretty well, did he not?

Mr. TALMAGE. Yes, indeed; but in several of his works he has allowed his imagination to play rather than to work; and, personally, I have taken issue with some of his published statements.

Mr. WORTHINGTON. Are you through, Senator Overman?

Senator OVERMAN. Yes.

Mr. WORTHINGTON. The fact that Orson Pratt publishes a certain work, and certain of your missionaries happen to have it with them and distribute it, does not make it binding on the church?

Mr. TALMAGE. In no sense.

Senator HOPKINS. Any more than the Life of St. Paul, by Lyman Abbott, is binding on his church?

Mr. TALMAGE. The analogy is an excellent one.

Mr. WORTHINGTON. Is there any publishing house authorized to publish works and send them out, which works bind the church as an organization?

Mr. TALMAGE. No such publishing house could be named. But I may say, by way of explanation, that the only supervision exercised by the church over the publications put out by these several publishing houses is in regard to reissuing standard works—three of the standard works. The church, of course, does not undertake to print the Bible, as Bibles can be obtained through the usual channels.

Mr. WORTHINGTON. The Deseret News has been spoken of here frequently as the organ of the church. Has anybody in your church the power to put in the Deseret News anything which is not in the standard works, that shall bind the people of your church, if it has not first been approved by the people?

Mr. TALMAGE. No one, not even the president of the church; that is, in matters of rules of religious practice. Of course, if this be carried to an unwarranted extreme, the statement may appear not to be strictly true. For example, every six months the first presidency of the church publishes, through the columns of the Deseret News, an announcement that a general conference of the church will be held such and such a place. That is binding on the people. If they want to exercise their rights as voters they must be there.

Mr. WORTHINGTON. I restricted my question to something not covered by your standard works.

Mr. TALMAGE. No one could make anything binding by simply publishing it in the Desert News, or any other medium, or any other form.

Mr. WORTHINGTON. While I am on this subject I wish to ask you about something that appears in the early part of the record. Some questions were asked which seem to indicate that there was in the mind of the questioner the impression that the people of the church have a veto power on the Almighty. You remember that passage in the record?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Would you like to express your views on that subject?

Mr. TALMAGE. I judge from the context, although I have not in mind the name or names of those who used the expression, that it was spoken with some attempted humor and with some ironical coloring. But in one sense there is more truth in it than might appear.

The Lord himself has given the people the right to veto, in one sense; that is, to reject. He has given them free agency, and has respected it much more fully than they respect one another's free agency. I have in mind the human family in general. The command, written amidst the thunders of Sinai, was "Thou shalt not kill," but every murderer vetoes that commandment, so far as it has application to himself, and sets it at defiance.

In that sense the people of the church, which bears the name of Him from whom the revelation of free agency came, have the right to reject any commandment or any instruction that the Lord may give, and then take the consequences. Free agency necessarily entails individual responsibility. But never since the organization of the church in this dispensation has there been an instance of divine revelation given to the church and made binding upon the people in the sense of robbing them of their right and freedom to choose or reject.

The Pearl of Great Price, to which reference has been made, and which, by the way, embodies translations of some ancient records by Joseph Smith, presents some chapters which are in a sense parallels with the chapters in Genesis.

As this record refers back as far as do any of the records in the standard works of the church, I may perhaps be permitted to call attention to a single paragraph showing how early this doctrine of

free agency was promulgated among the human family. I read from the Parl of Great Price, Book of Moses, chapter 3, paragraph 17, giving an account of scenes in the Garden of Eden. In the style of the narrative of Genesis, the Lord is represented as speaking unto Adam, and He says:

“But of the tree of the knowledge of good and evil, thou shalt not eat of it; nevertheless, thou mayest choose for thyself, for it is given unto thee; but, remember that I forbid it, for in the day thou eatest thereof thou shalt surely die.”

And so throughout the dealings of God with the ancient Israelites He respected their free agency. He gave them the right to accept Him as their God or to follow after the gods of the Amorites and Perizzites and all the rest of the tribes who were heathen and idolatrous.

True, after He had made his covenant with them, He gave commands that were detailed and required compliance therewith. But even then, in summing up the commandments that had been given, it was proclaimed again, “Now choose ye this day whom ye will serve,” and that same spirit of reverence for and recognition of the rights of his children is made plain in the modern revelations given unto the church in this dispensation.

Senator HOPKINS. That is not vetoing the will of God or the doctrine of God, is it? That is simply that God has given his directions to the human family and warned them of the punishment which will follow a violation of them. Is not that it?

Mr. TALMAGE. I agree with you, Mr. Senator. The term “veto” as there used must be understood to be in quotation marks and used in a figurative sense.

Senator HOPKINS. To veto is to annul, to set aside; but the laws of God remain immutable, and if men disobey them they suffer the punishment.

Mr. TALMAGE. That is very true, sir. If a revelation embodying great truths be given in the form of a commandment unto the people, or unto an individual, and the people or the individual should refuse to accept it, or by positive action reject it, they may be said figuratively to have vetoed that, as far as they themselves are concerned, in its operation of bringing them blessing—

Senator HOPKINS. No.

Mr. TALMAGE. But the truth remains.

Senator HOPKINS. No; they do not veto it. The law remains there.

Mr. TALMAGE. True.

Senator HOPKINS. They disobey it, and take the punishment which naturally follows.

Mr. TALMAGE. I agree with you perfectly.

Mr. WORTHINGTON. In connection with what you were speaking of a moment ago—an appeal from the decision of the presidency to the assembled quorums—is there any difference in the proceedings in a general conference when a president has died and a new one is submitted to the people to be sustained, and the proceeding which takes place at the semiannual conference when the same president is continued in office?

Mr. TALMAGE. You refer, of course, to the president of the church?

Mr. WORTHINGTON. Yes, sir; the president of the church.

Mr. TALMAGE. Yes, sir; there is a very marked difference.

Mr. WORTHINGTON. What is that difference?

Mr. TALMAGE. In the case of the semiannual voting on a president who has already been installed, the voting is carried on in the body as a whole; that is, all assembled vote at once by the uplifted hand. When a new president is to be installed, the congregation is seated in the order of what is known as the solemn assembly, the members of each quorum sitting together, and apart from others, and the high priests in one place, the seventies in another section of the house, the elders in another, the apostles in their position and place, the proposed new presidency, or the members of such, in their place; and the lay members of the church, holding no grade of priesthood at all, in their place—

Mr. WORTHINGTON. Before you proceed, explain what you mean by high priests.

Mr. TALMAGE. The term "high priest" is applied to a holder of the highest grade of the Melchisedec or higher priesthood.

It may be necessary to explain that the priesthood as existing in the Church of Jesus Christ of Latter-Day Saints comprises, as it did of old comprise, two divisions—the lower, commonly called the lesser priesthood, and specifically known as the Aaronic priesthood, or the priesthood after the order of Aaron, embracing the offices of priest, teacher, and deacon; the higher, or Melchizedec, priesthood, as it is designated by Paul, is known to comprise the specific callings of high priest, apostle, patriarch, seventy, and elder.

Mr. WORTHINGTON. Now proceed with the ceremony which takes place when the new president is to come into office and his name is submitted for approval of the body of the people.

Mr. TALMAGE. When the proposed new name is first presented to the people for their vote, the vote is taken separately by quorums or priesthood organizations. After the name has been presented, the high priest would be called upon; first, the presiding high priest, the proposed presidency, then the apostles, then the high priests in general, then the patriarchs, and the seventies and the elders; then the lesser priesthood would vote as a body; then the lay members of the church; those who are members of the church but hold no priesthood would then vote, and then, as a matter of custom, after that vote has been taken by quorums separately the question is submitted to the whole assembly, and they all vote together.

Mr. WORTHINGTON. Let me see if I understand that. The apostles first vote, do they?

Mr. TALMAGE. No; the three who are temporarily the acting first presidency would vote first.

Mr. WORTHINGTON. Then the apostles?

Mr. TALMAGE. Then the apostles.

Mr. WORTHINGTON. They would hold up their hands?

Mr. TALMAGE. That vote is taken both as a rising vote and by the uplifted hand.

Mr. WORTHINGTON. They alone rise and hold up their hands?

Mr. TALMAGE. True.

Mr. WORTHINGTON. What body next?

Mr. TALMAGE. The seven presidents of the seventies would come next in voting. Then the presiding high priests as stake presidents, and the patriarchs.

Mr. WORTHINGTON. And so on down?

Mr. TALMAGE. Yes, sir.
 Mr. WORTHINGTON. Each body voting separately?
 Mr. TALMAGE. Yes, sir.
 Mr. WORTHINGTON. While, when the president is simply to be sustained for another term of six months, the whole assembly vote as a unite?
 Mr. TALMAGE. True.
 Mr. WORTHINGTON. I want to ask you next in reference to the charges made here of arbitrary power.
 The CHAIRMAN. Mr. Worthington, will you be able to conclude with this witness by 12 o'clock?
 Mr. WORTHINGTON. No, sir.
 The CHAIRMAN. The committee will then take a recess until half past 1 o'clock this afternoon.
 At 11 o'clock and 45 minutes a. m. the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

TESTIMONY OF JAMES E. TALMAGE—Resumed.

JAMES E. TALMAGE, having been previously sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Doctor, I have been addressing you as Doctor. Are you entitled to that appellation?

Mr. TALMAGE. Yes, sir; I hold that degree.

Mr. WORTHINGTON. In what way?

Mr. TALMAGE. I hold the doctorate degree.

Mr. WORTHINGTON. Are you a member of any philosophical society?

Mr. TALMAGE. Philosophical?

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. What is it?

Mr. TALMAGE. I am a life associate of the Philosophical Society of Great Britain.

Mr. WORTHINGTON. Does that organization take into consideration theological matters as well as those which pertain to other philosophies?

Mr. TALMAGE. Yes, sir. The specific purpose of the organization is the study and consideration of alleged discrepancies between scientific truth and what is known as scriptural truth, or revealed truth, as declared in sacred writ. The organization named has long been under the presidency of the Lord Chancellor of England. I am also a life Fellow of the Royal Society, Edinburgh, and of other organizations.

Mr. WORTHINGTON. You have spoken of delivering certain lectures which are embodied in this book called "Articles of Faith." Have you been otherwise engaged in lecturing on theological subjects?

Mr. TALMAGE. Incidentally. Most of my lecturing experience has been, of course, along scientific and theological lines, but I have delivered lectures on the theology of the Church of Jesus Christ of

Latter-Day Saints before universities in this country and under various auspices abroad.

Mr. WORTHINGTON. Now, to take up the matter where we left off. Before the recess we were speaking of the matter of the alleged arbitrary power of the president. I will ask you whether there has been any case, in the history of your church, where the president has been brought to trial?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. When was that, and who was the president?

Mr. TALMAGE. The date I can not give you offhand. It was during the early years of the history of the church, and Joseph Smith, the first president of the church, was brought to trial on the complaint of one Sylvester Smith, who charged that the president was exercising arbitrary power. The reference, I think, I can give you with accuracy.

Mr. TAYLER. Did you state on whose initiative the trial came about, Doctor?

Mr. TALMAGE. The initiative was taken by the complainant, as I remember the record in the case.

Mr. TAYLER. Yes, very likely it would be; but what was the complainant's name?

Mr. TALMAGE. Sylvester Smith.

Mr. WORTHINGTON. He had already given the name.

Mr. TAYLER. That is what I was asking. I did not catch it.

Mr. TALMAGE. The record of the proceedings will be found in Volume I of the History of the Church, chapter 10. The circumstances, briefly stated, are these—

Mr. TAYLER. And when, Doctor?

Mr. TALMAGE. The dates I am not able to give you, not having the work at hand; but I can procure it for you.

Mr. TAYLER. If you can approximate it, please do so.

Mr. TALMAGE. It must have been in the early thirties, and really before the so-called courts of the church had become as thoroughly organized as they are now. As stated, the charge, as I remember it, was essentially that of undue exercise of power, and the accuser was given every opportunity to present his case before the assembled council of the church, and he voluntarily signed and published a statement after the trial to the effect that he had been mistaken and that he acquiesced in the decision of the council.

Mr. WORTHINGTON. Is there anything in section 121 of the Doctrine and Covenants which bears upon this subject of the power of the president, and in what respects obedience to his mandate is required?

Mr. TALMAGE. The section referred to contains general instructions as to the exercise of the power of the priesthood, and other sections prescribe definitely the way in which the president of the church may be brought to trial. The section referred to contains this general statement:

"36. That the rights of the priesthood are inseparably connected with the powers of heaven, and that the powers of heaven can not be controlled nor handled only upon the principles of righteousness.

"37. That they may be conferred upon us, it is true, but when we undertake to cover our sins or to gratify our pride, our vain ambition, or to exercise control, or dominion, or compulsion upon the souls

of the children of men, in any degree of unrighteousness, behold, the heavens withdraw themselves; the spirit of the Lord is grieved, and when it is withdrawn, amen to the priesthood, or the authority of that man.

"38. Behold! ere he is aware, he is left unto himself to kick against the pricks, to persecute the saints, and to fight against God.

"39. We have learned, by sad experience, that it is the nature and disposition of almost all men, as soon as they get a little authority, as they suppose, they will immediately begin to exercise unrighteous dominion.

"40. Hence many are called, but few are chosen.

"41. No power or influence can or ought to be maintained by virtue of the priesthood, only by persuasion, by long suffering, by gentleness, and meekness, and by love unfeigned.

"42. By kindness and pure knowledge, which shall greatly enlarge the soul without hypocrisy and without guile.

"43. Reproving betimes with sharpness, when moved upon by the Holy Ghost, and then showing forth afterwards an increase of love toward him whom you hast reproved, lest he esteem thee to be his enemy.

"44. That he may know that there faithfulness is stronger than the cords of death."

Mr. WORTHINGTON. What is the heading of the chapter, Doctor, from which you have been reading?

Mr. TALMAGE. The section is headed "Section 121, A Prayer and Prophecies. Written by Joseph, the Seer, while in Liberty Jail, Clay County, Missouri, March 20, 1839," and I have read from paragraph 33 to paragraph 44, both inclusive.

Mr. WORTHINGTON. Can you tell us whether the whole of that document was printed in the Doctrine and Covenants in that section?

Mr. TALMAGE. The section in question embodies parts of letters written from Liberty jail, as also does the following section, 122, and the section following that, 123; but not all of those letters are published, and not all of any one, perhaps.

Mr. WORTHINGTON. Have you here an extract from one of the letters—an extract which was not included in the Doctrine and Covenants, which bears upon this question of obedience to the head of the church?

Mr. TALMAGE. I have, sir. I have an extract from the letter or letters, parts of which appear in the Doctrine and Covenants under the head of section 123. This extract now appears in print, together with other parts, in the "History of the Church, Volume III, page 294." That volume, Volume III, of the History of the Church, is not yet in circulation, but this particular part of it has been printed, to my knowledge.

Mr. WORTHINGTON. Read it, please.

Mr. TALMAGE. The extract, additional to section 123, reads as follows:

"Now, brethren, concerning the places for the location of the Saints, we can not counsel you as we could if we were present with you; and as to the things that were written heretofore, we did not consider them anything very binding, therefore we now say, once for all, that we think it most proper that the general affairs of the church, which are necessary to be considered, while your humble servant

remains in bondage, should be transacted by a general conference of the most faithful and the most respectable of the authorities of the church, and a minute of those transactions may be kept and forwarded from time to time to your humble servant; and if there should be any corrections by the word of the Lord, they shall be freely transmitted, and your humble servant will approve all things whatsoever is acceptable unto God. If anything should have been suggested by us, or any names mentioned, except by commandment, or thus saith the Lord, we do not consider it binding; therefore our hearts shall not be grieved if different arrangements should be entered into. Nevertheless, we would suggest the propriety of being aware of an aspiring spirit, which spirit has oftentimes urged men forward to make foul speeches, and influence the church to reject milder counsels, and has eventually been the means of bringing much death and sorrow upon the church."

MR. WORTHINGTON. Now, I gather from what you have read that the prophet intended there that only when he spoke as delivering a revelation from the Lord was obedience required. Am I correct in that?

MR. TALMAGE. That is my inference, sir, and I think the language will really admit of none other.

MR. WORTHINGTON. And that when he does receive such a revelation it must be submitted to the conference and accepted by the people before it becomes binding?

MR. TALMAGE. That is true.

MR. WORTHINGTON. Is there anything in the standard works of the church, anything in the authority which is given to the president in the only manner in which you say it can be given to him, which binds the members of the church to obey him in temporal matters not relating to the affairs of the church?

MR. TALMAGE. Nothing whatever.

MR. WORTHINGTON. I wish you would state, in your own way, to what the rule of obedience to the commands of the head of the church extends.

MR. TALMAGE. We do not recognize commands coming to the people from the head of the church, I may say, in any sense, unless it be the promulgation of a law received by revelation. Such instructions or counsels, or such advice, as may be given by the president of the church, would be received and considered by the people with respect and care, and would have weight; but I have never known of such counsels being received by all in the same spirit. The people are free to receive them or reject them as they choose.

MR. WORTHINGTON. Let me suppose, to make this matter clear here, that you were a Senator from the State of Utah and that a measure should be pending before the Senate, and the head of the church should instruct you how to vote on that pending measure. What would be the extent of his authority or of your obligation to obey him?

MR. TALMAGE. To me it is an un-supposable case.

MR. WORTHINGTON. Well, I, perhaps, ought to ask your pardon and his for supposing it, but I will suppose it, inasmuch as it seems to have been supposed by others in this case, and the charge is flatly made that Mr. Smoot, as a Senator, is bound to obey the orders of the church.

Mr. TALMAGE. Well, adopting what I have called an un-supposable case, for the purpose of illustration, and answering your question as to my own probable attitude in the matter, I think if the president of the church, or any other officer of the church, were to presume to instruct me in my position as a Senator, I should remind him that I was the Senator and he was not.

Mr. WORTHINGTON. Well, that is very well as expressing your personal attitude; but what do you say as to whether you would have a right to take that position under the doctrines of your church?

Mr. TALMAGE. Most assuredly. I think any man would take that position.

Mr. WORTHINGTON. In this connection, there is something said in this record on page 188—I believe you have looked at it—in reference to priestly authority. I think Senator Hoar asked some question of President Smith about what constitutes priestly authority, and he asked especially with reference to powers that women may have in the church. What do you understand to be the meaning of that phrase, “priestly authority,” in your church?

Mr. TALMAGE. Priestly authority I would define as the authority requisite for the administration of any ordinance prescribed by the law of the church, requiring the official act of one holding a specified degree of priesthood. There is much work pertaining to the church that is carried on without any delegation of authority in the priesthood, or without any ordination to the priesthood.

To make my meaning clear, since reference has been made to the women’s organizations, which are important in the church, because of the good work they do, I may say that the Woman’s Relief Society, for example, the purpose of which is expressed in the name, the Young Ladies’ Mutual Improvement Association, another strong organization and, like the preceding, of national recognition, the purpose of which is also expressed by the name, are conducted by officers, women, who are either appointed to that office directly by the authorities of the church, or approved by them. But these women are not ordained to any office either in the lesser or the higher priesthood. They are not priests. They are not elders. They are not seventies. Neither are they high priests or apostles. They are doing work that does not require any special appointment in the priesthood.

Now, if, on the other hand, one undertakes to administer the ordinance of baptism, he would be but a pretender if he so undertakes, unless he has received the necessary degree of priesthood to so officiate.

Mr. WORTHINGTON. And so of the sacrament of marriage, I suppose?

Mr. TALMAGE. Precisely so, and so with all other sacraments and ordinances in the church.

Mr. WORTHINGTON. Now, there is in evidence here a letter written by President Seegmiller, as president of a stake, to a member of the church, in which he refers to the president or the presidency—I do not remember which, and it is immaterial—as the mouthpiece of God. Are you aware of anything in the tenets of your church which authorizes that expression to be applied to the head of the church in matters relating to the passing of titles to land, for instance?

Mr. TALMAGE. The propriety or impropriety of using such a figurative expression would depend upon the sense in which it is used. Recognizing, as we do, that the president is the one through whom revela-

tion, if such comes at all, pertaining to the affairs of the church, will come, in that sense he may be spoken of as being the mouthpiece of God; but unless he speaks by virtue of his position in that capacity, or, to quote the words of Joseph Smith, the first president, in the extract from his letter which was just read by me, unless he is prepared to say "Thus saith the Lord" he can not be so described with propriety.

Mr. WORTHINGTON. Is it not true, then, that when he does speak in that sense, as the mouthpiece of God, proclaiming a revelation to the people, that must be submitted to a conference and accepted by it before it becomes a law of the church?

Mr. TALMAGE. Undoubtedly.

Mr. WORTHINGTON. So that, as I gather it from you, in no proper sense could he be called the mouthpiece of God, except when he is submitting to the church revelations coming from the Almighty through him to the church?

Mr. TALMAGE. Such is my understanding, and I think the president would repudiate the application of such a title or term to him in reference to all his individual actions.

Mr. WORTHINGTON. Yes. I observe that this letter does not emanate from him or his office. Now, on this same general line, there is an extract in this record from one of Orson Pratt's works about the "Kingdom of God." We are familiar with it, and you have read it, I believe?

Mr. TALMAGE. I have read it; yes, sir.

Mr. WORTHINGTON. Which is capable, at least, of the interpretation that the church is superior to governmental authority of this nation or any other. What do you say as to whether, if it be interpreted in that way, it correctly states the doctrine of your church?

Mr. TALMAGE. When those utterances of Orson Pratt are so interpreted, they do not in any sense represent the doctrines or the spirit of the doctrines of the church. The particular publication to which you refer, and which you describe properly by its title, "The Kingdom of God," appeared originally as a serial publication in one of the periodicals, the Millennial Star, if I remember correctly. It may, however, have been some other periodical. It was then published as a tract. If you will read the whole of that pamphlet, or tract, or article, you will see that the rather extreme statement and unguarded comparisons made in the first part are departed from and do not recur again in the latter part, or in the body of the article proper, and in the summary thereto you will see that no reference is made to an existing kingdom as a temporal power. But personally I can not accept that publication of his as representing my views, as a member of the church, and I am sure that it does not represent the views of the members of the church generally. There is no room for question or doubt on this part or phase of the subject—that it has never been adopted by the church or in any way regarded by them as authoritative. The term "Kingdom of God" is used, not only in modern, but in ancient scriptures, in two senses. In the common use of the term it has a metaphorical or figurative meaning, and perhaps is made synonymous with the church; but in its specific use it has reference to the kingdom that is to be established when Christ, who is scripturally designated as King of Kings, shall come to rule in person upon the earth.

Mr. WORTHINGTON. That is when, as we say in the Lord's prayer, "Thy kingdom come?"

Mr. TALMAGE. Precisely so.

Mr. WORTHINGTON. Have you a letter, an article, that was published in the Deseret News for Christmas, 1903, signed by President Smith, on this subject of what is meant in your standard works by the "Kingdom of God?"

Mr. TALMAGE. Yes, sir. Under date of December 19, 1903, that being the date of the publication of what is known as the Christmas edition—an unusually large edition——

Mr. WORTHINGTON. Without asking you to read that, let me ask you——

Mr. TALMAGE. Please let me finish—appears an article signed by all three of the first presidency.

Mr. WORTHINGTON. Do you agree with what is set forth in that document on this subject? Does it, to your mind, expressly set forth the true doctrine of the church on this subject, of which you have just been speaking?

Mr. TALMAGE. It does, sir. The article is in strict accord with the standard works of the church, so far as they contain any doctrinal statements on this subject.

Mr. WORTHINGTON. I would like to have that incorporated in the record at this point. Mr. Chairman.

The CHAIRMAN. What is that?

Mr. WORTHINGTON. It is a letter signed by the presidency and published in the Deseret News, giving their explanation of this phrase which the witness has been speaking of, "The Kingdom of God," which is used in Orson Pratt's works, and which I wish to put in evidence.

The CHAIRMAN. Let it go in.

The letter referred to is as follows:

"The Christmas season brings to mind the mission and teachings of that Divine man whose birth into the world is now commemorated. His forerunner proclaimed, concerning His advent, 'The Kingdom of Heaven is at hand.' The enemies of Christ and His cause declared this to be treason against imperial Rome. And the cruel death to which the Messiah was put followed the accusation. Yet, the Kingdom that was announced by the Baptist and the Nazarene, was in no sense inimical to any earthly government, but tended to make its adherents better citizens and more useful to the state because of their attachment to the church and Kingdom of God. They were to 'render unto Cæsar the things that were Cæsar's' while they 'rendered unto God the things that were God's.'

"It is the same in the restoration of the church and kingdom in the latter days, preceding the second advent of the world's Redeemer. It is again announced that 'the Kingdom of Heaven is at hand,' and as a preparatory work the Church of Jesus Christ of Latter-day Saints has been organized, by Divine authority and commandment. And history repeats itself in the old cry of 'treason' and the charges that the 'Mormon' organization is imperium in imperio. Yet, it does not attempt to exercise the powers of a secular government, but its influence and effects are to strengthen and promote fidelity to the law and loyalty to the nation where its followers reside.

"The phrase 'church and kingdom' is frequently used by speakers and writers in reference to the system called 'Mormonism.' It is solely an ecclesiastical organization. It is separate and distinct from the state. It does not interfere with any earthly government. Its members, however, are also citizens, entitled to the same rights and privileges as other persons who are not of their faith. Its officers are not deprived of anything appertaining to citizenship in consequence of their ecclesiastical calling. Their duty to God is not incompatible with their duty to their country; on the contrary, the former implies and emphasizes the latter.

"The religion of the Latter-Day Saints relates to present conduct as well as future happiness. It influences its votaries in everything that affects human character. It is for the body as well as for the spirit. It teaches people how to live and act in this world that they may be prepared for the realities of the world to come. The church, therefore, instructs in things temporal as well as things spiritual, so far as they relate to the church, its properties and institutions, and the association of its adherents. But it does not infringe upon the liberty of the individual or encroach upon the domain of the State. The free agency of man is a fundamental principle which, according to the tenets of the church, even God Himself does not suppress. Therefore the church does not dictate a member's business, his politics, or his personal affairs. It never tells a citizen what occupation he shall follow, whom he shall vote for, or with which party he shall affiliate.

"In the case of such church officers as are expected to devote their time and talents constantly in its service, and upon whom it depends for the prompt performance of such obligations, it requires that they shall, before entering into secular pursuits that would prevent them from attending to their church duties, first acquaint their presiding officers with their desires and obtain permission to carry out their intentions, in order that no confusion or failure in the order and work of the church may be occasioned thereby. This requirement necessarily extends to the acceptance of political office, but not to the choice of party or the liberty to engage in such political or other activity as would not interfere with the services due to the church. Every officer as well as member of the church is entirely free as to political opinion and action, and may resign any position that is in restraint of perfect liberty.

"The early settlement of Utah by the Latter-Day Saints or Mormons was the result of persecution and hostility to their religion. The church leaders were the pioneers in this colonization. They directed the movement and the work of founding and building cities and industries, for the formation of a new Commonwealth. When the Territory was organized by Congress they were placed in public office as the logical and fitting incumbents. The president of the church, the leading pioneer, was appointed governor by the President and Senate of the United States. Other prominent church leaders received civil appointments, and the most active church officials, being engaged also in promoting secular improvements, were elected to Territorial and civil positions. This condition of affairs fostered the notion that Mormonism united church and state. The unanimity that prevailed in the choice of these public servants while the people of Utah were practically of one faith and party further favored the impression abroad that they voted as they were required by the

church. But the ecclesiastical and political systems were kept distinct, and their affairs were separately conducted and maintained.

"It does not follow because a man who is elected to a national, State, or municipal office is also a minister of religion that a union is formed between church and state. And if there is anything of that nature in the case of an ecclesiast in one of the orthodox churches holding a political office, it is different with the officials of the Mormon Church, who, as a rule, follow secular pursuits for their livelihood and engage in business like other citizens. They do not form a separate class even among their coreligionists, but the priesthood of the Mormon Church is held by the large majority of its male members. And the church exacts no special duty from any person who is elected to a political office nor imposes upon him any requirements that conflict with those of his secular oath or obligation. It interposes nothing between him and his full fidelity to the Government which he is elected to serve.

"There is no such thing as 'the oath of an apostle,' or 'the oath of an elder,' or of any other officer in the Mormon Church. Nor is any person belonging to it required to take an oath, obligation, covenant, or agreement against or to the injury of any government under the sun. All statements to the contrary are mistakes or willful untruths. The church and kingdom of God promotes obedience to the laws of the land, and recognizes the National Constitution as of divine origin, in that it was framed by wise men raised up by the Almighty for that very purpose. Its principles are to be upheld, and the authority it confers is to be respected and sustained by every Latter-Day Saint. This has been taught in the church from the beginning, in public and in private, and is established as one of its 'articles of faith.' Such statutes as at any time were resisted by Mormons were opposed because they were believed to be contrary to the Constitution, and were tested in the manner provided in that sacred instrument. The result has been acquiesced in at the cost of much humiliation and suffering to many individuals.

"The Bible, which is one of the written standards of the Mormon Church, teems with predictions and promises of the establishment of divine rule on the earth; of the advent of a reign of righteousness extending over all the face of the globe. Christ is to be King, and all nations and peoples are to serve and obey Him. That is to be the kingdom of God in very deed. The Church of Jesus Christ of Latter-Day Saints is set up preparatory to that kingdom. Its gospel is 'the gospel of the kingdom.' Its principles, ordinances, authority, and gifts are of heavenly origin. It is therefore the spiritual 'kingdom of heaven,' bearing within it the influence and power that are to open the way for the fulfillment of the prophecies concerning the universal dominion of the Son of God. Church members are commanded by divine revelation to 'be subject unto the powers that be until He comes, whose right it is to reign.' They are thus enjoined by the same authority: 'Let no man break the laws of the land, for he that obeys the laws of God hath no need to break the laws of the land. The twelfth article of faith, taught to children in the Sunday schools, to the young people of both sexes in the mutual improvement associations, and to all communicants in the church, is: 'We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law.'

"The courts of the church are entirely ecclesiastical. They adjudicate between church members in matters of dispute and in the promotion of church discipline. Litigation among them is deprecated, and it is deemed wrong for brother to go to law against brother. But no penalty is enforced other than disfellowshipment or excommunication as the extreme punishment. The courts of law are recognized in their secular capacity, and their decisions are honored and observed.

"Sermons, dissertations, and arguments by preachers and writers in the church concerning the kingdom of God that is to be are not to be understood as relating to the present. If they are so presented as to convey the idea that the dominion to come is to be exercised now, the claim is incorrect, no matter by whom set forth, because it is in direct conflict with divine revelation to the church. Such opinions do not weigh at all when placed in the scales against the word and command of Almighty God.

"The church and kingdom of God does not use any compulsion over the souls of men. Nor does it claim any right so to do. The priesthood which it bears is divine authority to administer in behalf of Deity in the truths and ordinances of salvation. Those who hold it are warned against seeking to exercise unrighteous dominion, and instructed that it can only be maintained 'by persuasion, by long-suffering, by gentleness and meekness, and by love unfeigned.' The presiding authorities therein regulate the affairs of the church by 'common consent,' and their jurisdiction is within, and not without, its ecclesiastical limits. Every member of the organization in every place is absolutely free as a citizen, and is not restrained of any liberty enjoyed by nonmembers.

"The attitude of this church toward other religious societies is thus clearly set forth in the eleventh article of our faith: 'We claim the privilege of worshipping Almighty God according to the dictates of our conscience, and allow all men the same privilege, let them worship how, where, or what they may.' In this spirit we act toward all the nations and kingdoms of the world. We have no quarrel with any of them. In proclaiming 'the kingdom of Heaven's at hand, we have the most intense and fervent convictions of our mission and calling, and intend to stand by them under all circumstances and conditions. But we do not and will not attempt to force them upon others, or to control or dominate any of their affairs, individual or national. We regard all people as the children of the Eternal Father, and therefore as our brothers and sisters. We seek their welfare, we endeavor to enlighten them, we desire their happiness, progress, and salvation. We abhor tyranny, we resent oppression, but we do not believe in retaliation for real or supposed injuries. We seek to enjoy and exercise the spirit that inspired the world's Redeemer who, we believe, will eventually be its King. And with that feeling we proclaim that the motto of this church and kingdom of the latter days on this Christmas day in the year of our Lord 1903, is, as of old, 'Peace on earth, good will to man!'

"JOSEPH F. SMITH,

"JOHN R. WINDER,

"ANTHON H. LUND.

"*First Presidency of the Church of*
"Jesus Christ of Latter-Day Saints."

Mr. WORTHINGTON. I believe there is something in one of the volumes of the Journal of Discourses, by Brigham Young, on the same subject, is there not? Have you that, or a reference to it?

Mr. TALMAGE. I have an extract from a sermon by President Brigham Young, bearing on this subject, which sermon is to be found in the Journal of Discourses, volume 31, page 140. The extract is very brief.

Mr. WORTHINGTON. Then I will ask you to read it.

Mr. TALMAGE (reading):

“THE KINGDOM OF GOD.

“We are asked, Is the Church of God and the Kingdom of God the same organization? and we are informed that some of the brethren hold that they are separate.

“This is the correct view to take. The Kingdom of God is a separate organization from the Church of God. There may be men acting as officers in the Kingdom of God who will not be members of the Church of Jesus Christ of Latter-Day Saints. On this point the Prophet Joseph gave particular instructions before his death, and gave an example, which he asked the young elders who were present to always remember. It was to the effect that men might be chosen to officiate as members of the Kingdom of God who had no standing in the Church of Jesus Christ of Latter-Day Saints. The Kingdom of God when established will not be for the protection of the Church of Jesus Christ of Latter-Day Saints alone, but for the protection of all men, whatever their religious views or opinions may be. Under its rule, no one will be permitted to overstep the proper bounds or to interfere with the rights of others. Journal of Discourses, vol. 31, p. 140.”

Mr. WORTHINGTON. Now, to go back a moment to this matter of church courts. Are you familiar with the practice, in that regard, as to other sects?

Mr. TALMAGE. In a general way, I have taken some interest in making a comparison between the court procedure in the church to which I belong and analogous procedure in other sects.

Mr. WORTHINGTON. In the matter of the sect which we call the Quakers, who call themselves Friends, I believe, I will ask you to look at this book, which is entitled “Rules of Discipline,” at the chapter beginning on page 17 and headed “Arbitration,” and state whether it sets forth correctly what you understand to be the procedure of that particular sect in this regard. It seems to me very much like your church procedure.

Mr. TALMAGE. I so understand, from reading and from personal conversation with and investigation among some leading Quakers.

Mr. WORTHINGTON. Then I will ask, Mr. Chairman, that in order to avoid taking up time by reading that chapter, it be incorporated in the record here. It is a short chapter. It might be supposed to be a description of the Mormon Church, if we did not know that it was that of the Friends. It is very short—only two or three pages.

The CHAIRMAN. If there is no objection it may go in.

The article referred to is as follows:

"ARBITRATIONS.

"If occasions of differences arise between any of our members about their property it is recommended that the parties proceed in the following manner: Let the party who thinks himself or herself aggrieved calmly and kindly request the other to comply with the demand; and if this be disputed the complainant, or if he or she lives at too great a distance, some friend whom they may authorize, should take with him one or two of the overseers or other discreet friends and in their presence repeat the demand.

"If this step also fails of the desired effect, the parties should be advised to choose a suitable number of friends as arbitrators and mutually engage by bond or other written instrument adapted to the occasion to abide by their determination.—1719.

"Should this proposal be acceded to and arbitrators be accordingly chosen, they ought, as speedily as circumstances will admit, to appoint time and place and attend to the business without unnecessary delay; giving the parties a fair and full hearing in the presence of each other, but listening to neither of them apart nor suffering their own sentiments to be known abroad till they have fully digested the subject and come to a clear decision, which they should be careful to do within the time agreed on.

"But if either of the said parties shall refuse to submit the matter in dispute to arbitrators or, when that is done, neglect to give his or her attendance when desired without a sufficient reason being assigned, or not abide by their award when issued, in either of these cases the offender should be complained of, through the overseers, to the preparative meeting, and if needful to the monthly meeting of which he or she is a member; and if they can not be brought to a due sense of their error the said meeting should declare its disunion with them, unless such person make it evident to the satisfaction of the said meeting, or to a committee thereof, that the award is erroneous or unjust. In which case the matter in dispute may be referred either to the same or other arbitrators, as the meeting shall judge best; and their award shall be final. After which, if either of the parties at variance prove so regardless of peace and unity as not to acquiesce in such corrected determination the monthly meeting they belong to should proceed to issue a testimony against him or her so refusing.

"Where arbitrators are at a loss for want of legal knowledge it may be proper for them, at the joint expense of the parties, to take the opinion of counsel learned in the law in order to come at a proper judgment in the matter referred to them. That they may the better answer the end of their appointment, and be helpful in conciliating the minds of the parties, they ought not to consider themselves as advocates for those by whom they are chosen, but as men, whose duty it is to judge righteously, fearing the Lord. They should, as much as may be, shun all previous information respecting the case; or, having heard anything on it, stand unbiased thereby.—1751.

"They should reject no evidence nor witness proposed, nor receive any but in the presence of both parties, and in their award they need not assign any reason for their determinations.—1719.

"And whereas there may be some circumstances even in disputed matters wherein the foregoing wholesome method of proceeding can not be complied with, such as, first, the party absconding or leaving

the country with design to defraud his or her creditors; or, second, that the going through the meetings, by the time it must necessarily take up, might be a manifest damage to the creditor or claimant by other people's postponing him or her, as in cases of apparent danger of bankruptcy, or the party being overloaded with debts, and other creditors generally coming on: or, third, that there may be danger of future damage to such as submit thereto, as in the case of executors, administrators, or trustees. It may therefore be necessary, and it is advised, that the monthly meeting where such cases happen do hold excused such as shall in the two first-mentioned circumstances in this paragraph appear to them to be really necessitated to proceed at law; and in the latter case of executors, administrators, or trustees, where it shall appear to the meeting that our friendly way would be unsafe, such may be permitted to have the matter tried at law, with this caution—that the parties on both sides do behave toward each other in brotherly love, decency, and moderation, without anger or animosity, which will be a becoming testimony even in courts, and show that nothing but the nature of the case and our station in common with others, under the laws of the land, bring any of us there.—1719.

“As it may sometimes occur that a member, either through a misunderstanding of the business or from an improper influence, may present a complaint against another member, the overseers, after fully hearing both parties, and being decidedly of opinion that the case does not require a reference, are to advise a speedy settlement thereof; which, being ineffectual, and the complainant remaining dissatisfied therewith, he may have liberty to inform the preparative meeting, where the other party is a member, without mentioning any name, that having a matter in dispute with one of their members, he is desirous of their assistance in order to a settlement thereof. The said meeting is then to appoint a judicious committee to inquire into the propriety of the matter being left to arbitration. If they should judge that the complaint ought to be referred, they are to advise that it be submitted accordingly. If either party refuses to comply with this advice, the monthly meeting, of which he or she is a member, is, through its respective preparative meeting, to be informed thereof, to take up the case accordingly and endeavor to bring the business to a speedy issue, that our Christian testimony to peace and concord may be duly maintained; but if the committee of the preparative meeting, where the assistance has been requested, concur in judgment with the overseers, the complainant is to be dismissed.—1806.

“It is desired that persons differing about worldly affairs do as little as may be engage friends in the ministry as arbitrators in such cases.—1751.”

Mr. WORTHINGTON. Do you know of any other sects which have similar proceedings in church courts, or in the courts of their sect?

Mr. TALMAGE. In a general way, I think practically all well-organized sects recognize some method of procedure, which in some degree is analogous to the so-called judicial procedure in the Church of Jesus Christ of Latter-Day Saints, though perhaps in few, if any, are the church courts, as they have been here styled, so thoroughly graded and organized. The good people known as the Mennonites have a provision for such arbitration, as I know from personal inquiry, and I believe most well-established sects have such also. The Presbyte-

rians, by their very name, are governed by the presbytery, and while I would not undertake to give any detailed information, not being well informed on that matter, I understand that they would at least go to the extent of making proper investigations between members of their church, if differences had arisen; that being done, of course, as I take it, in all those churches, in a Christian spirit and with the purpose of allaying rather than increasing agitation and discord.

Mr. WORTHINGTON. Now, I want to go to another subject which is of some interest here—the subject of polygamy. First, it has been contended here, as I understand, that under the original dispensation of your church, when that doctrine was first proclaimed through a revelation coming through Joseph Smith, jr., it was mandatory on the members of the church. What do you say to that?

Mr. TALMAGE. I have never so understood it, and I would have to interpret plain English in a very different way from what I do to so interpret it, even from the revelation as it is now published and has been published from the first. The revelation referred to appears in the Doctrine and Covenants as section 132. It is headed “Revelation on the Eternity of the Marriage Covenant, Including Plurality of Wives.”

Mr. WORTHINGTON. I may say to you, Doctor, that the whole of that chapter is already in evidence and in the record in this case.

The CHAIRMAN. It is all in.

Mr. WORTHINGTON. So it is not necessary to read it; but if there is any particular part of it which bears upon the matter about which I am asking you I would like you to refer to it and state why you have reached the conclusion you have stated.

Mr. TALMAGE. I thank counsel for his explanation. I was not intending to read it, but desired to emphasize the significance of the title.

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. It is primarily a revelation on the eternity of the marriage covenant, and if analyzed with care it will be seen that that is the fundamental thought pervading the whole revelation appearing as this section. The meaning, I think, could be made clear by a very few short paragraphs.

Mr. WORTHINGTON. Very well.

Mr. TALMAGE. The revelation purports to be a declaration of the Lord through Joseph Smith—perhaps I should say to Joseph Smith—as to what is here called “the new and everlasting covenant.”

Paragraph 4 reads:

“For behold! I reveal unto you a new and an everlasting covenant.”

Paragraph 7 sets forth in an explicit manner just what the nature of that new and everlasting covenant is. Paragraph 7 reads:

“And verily I say unto you, that the conditions of this law are these: All covenants, contracts, bonds, obligations, oaths, vows, performances, connections, associations, or expectations that are not made and entered into and sealed by the Holy Spirit of promise of Him who is anointed, both as well for time and for all eternity, and that, too, most holy, by revelation and commandment through the medium of mine anointed, whom I have appointed on the earth to hold this power (and I have appointed unto my servant Joseph to hold this power in the last days, and there is never but one on the earth at a time on whom this power and the keys of this priesthood are conferred), are of no

efficacy, virtue, or force, in and after the resurrection from the dead: for all contracts that are not made unto this end have an end when men are dead."

I emphasize this phase of it because the new and everlasting covenant here referred to is a covenant that can be entered into under proper authority, to be of effect after death and not simply in this world.

I make this explanation, because it will be seen, if you read the entire revelation with care, that the feature of marriage is incidental, in a way, to that general statement of this new law or new and everlasting covenant. The revelation then goes on to explain that if a man marry a wife under the laws of this earth in any nation, that marriage is valid as long as life shall last. The words of the English marriage service are not here incorporated, but the spirit is the same—"until death do you part." But, according to this new and everlasting covenant, it was made clear that there is an authority by which covenants may be made that shall not be annulled with death. Then, in a manner—that is, relatively speaking or incidentally speaking—the Lord answers the question put by the Prophet Joseph Smith as to how he could justify Abraham and Isaac and Jacob and Moses and David and Solomon in living in polygamy, by explaining that they had received their wives under this eternal covenant, and he says that in no instance did they sin except in the case of David's grave crime; and the punishment that was visited upon that great man on account of his sin is set forth in strong terms.

Now, returning to the question and apologizing for this long introduction (I will take occasion to say there is no paragraph in that revelation which, to my mind, confirms the inference that it was ever intended to be mandatory except upon one man. It is declared here that Joseph Smith was the man unto whom the keys of that authority were transmitted, that any such marriage would have to be solemnized by that authority then delegated to him (either solemnized by him in person or by one whom he would appoint for the purpose), the keys of the authority, to use the term employed in the revelation, resting with him.

Now, I take it, it would have been inconsistent, at least to my feeble mind, the delegating or giving of that power to a man and then not requiring him first to obey that law himself. He was the man to whom that command was given. In other cases it was permissive only. By way of illustration of that—

The CHAIRMAN. Mr. Worthington, do you care for all this?

Mr. WORTHINGTON. I do; yes, Mr. Chairman.

The CHAIRMAN. All right.

Mr. WORTHINGTON. I do not see, when so much time has been spent here in trying to show that it was mandatory, why the church may not properly present somebody here to show that it is not.

The CHAIRMAN. I will only suggest to the witness, without leaving out anything, to be as brief and as rapid as possible.

Mr. TALMAGE. I say, by way of illustration of that natural interpretation—the interpretation that has always been in my mind the only one that I can give—we read here that if a man shall marry a wife or shall marry wives, under "the new and everlasting covenant," he shall be justified. I have not usually found in these revelations

that the Lord commands a man to do a thing and then tells him he will excuse him for doing it.

Mr. WORTHINGTON. Where is the word "justify" used? In what section and paragraph? Well, you need not spend any time in looking for that, but you can give it to the reporter later on and he will insert it.

Mr. TALMAGE. I can give it in a minute. I can give you the exact paragraph. It is in section 132, paragraph 62. To make it plain, I must read first paragraph 61:

"61. And again, as pertaining to the law of the priesthood: If any man espouse a virgin and desire to espouse another, and the first give her consent; and if he espouse the second and they are virgins and have vowed to no other man, then is he justified; he can not commit adultery, for they are given unto him; for he can not commit adultery with that that belongeth unto him and to no one else.

"62. And if he had ten virgins given unto him by this law, he can not commit adultery, for they belong to him, and they are given unto him, therefore is he justified."

Now, I ask you to contrast that with the remarks addressed directly to the man to whom this revelation was given, beginning at paragraph 1:

"1. Verily, thus saith the Lord unto you, my servant Joseph, that inasmuch as you have inquired of my hand, to know and understand wherein I, the Lord, justified my servants Abraham, Isaac, and Jacob, as also Moses, David, and Solomon, my servants, as touching the principle and doctrine of their having many wives and concubines:

"2. Behold! and lo, I am the Lord thy God, and will answer thee as touching this matter:

"3. Therefore, prepare thy heart to receive and obey the instructions which I am about to give unto you: for all those who have this law revealed unto them must obey the same."

I say again the mandatory feature has application to one man and to one man only.

The CHAIRMAN. As I understand you, this law was revealed to only one individual.

Mr. TALMAGE. The revelation was given to one man, Mr. Chairman.

The CHAIRMAN. And he, alone, was bound to obey it?

Mr. TALMAGE. At that time, he alone.

Mr. WORTHINGTON. There has been no similar revelation to anybody else?

Mr. TALMAGE. No; of course, with his death, that same power descended to his successor.

I would ask the privilege of saying, if you are through with that subject, that another feature of that revelation, upon which some comment has been made, is the threatened destruction of the woman who would oppose obedience to that law on the part of her husband. I think it is, if possible, even more plain that that threatened destruction applied to but one woman. It was absolutely required that the man to whom that revelation was given and unto whom the keys of that power were transmitted should obey that law, and he is told here that if his wife opposed that the Lord would deal with her. The paragraph reads:

"And again, verily, verily, I say unto you, if any man have a wife, who holds the key of this power, and he teaches unto her the

law of my priesthood, as pertaining to these things, then shall she believe, and administer unto him, or she shall be destroyed, saith the Lord your God, for I will destroy her; for I will magnify my name upon those who receive and abide in my law."

Mr. WORTHINGTON. Now, you have practically answered, in reading that chapter and in what you have said about it, my next question as to what is meant by celestial marriage, a phrase which has been often used in this record.

Mr. TALMAGE. Celestial marriage is the order of marriage sanctioned by this authority of the priesthood described as the authority existing and operating under "the new and everlasting covenant," and being a marriage for eternity as well as for this mortal probation called time, by a covenant between the parties, authorized and sanctioned by the authority transmitted as described.

Mr. WORTHINGTON. Then the phrase "celestial marriage" is not at all synonymous with "polygamous marriage?"

Mr. TALMAGE. In no sense.

Mr. WORTHINGTON. The first marriage may be a celestial one as well as a subsequent one?

Mr. TALMAGE. Yes, sir; and most of the celestial marriages solemnized in the Church of Jesus Christ of Latter-Day Saints have been monogamous marriages--always have been.

Mr. WORTHINGTON. Then we have the expression frequently used here of a man being sealed to a woman. Is there any difference between the true meaning of that expression and the phrase "celestial marriage?"

Mr. TALMAGE. No, sir. The term "sealed" is sometimes used synonymously with the "marriage for time and eternity," or "marriage for eternity," if that were meant.

Mr. WORTHINGTON. Now, the next matter in order in this connection is the manifesto of President Woodruff, which was submitted to a conference on the 6th of October, 1890. I believe you were present when that manifesto or revelation was submitted?

Mr. TALMAGE. I was present when the manifesto was submitted to the conference.

Mr. WORTHINGTON. And of course you voted to sustain it?

Mr. TALMAGE. I did, sir.

Mr. WORTHINGTON. To make the matter as brief as possible, in terms that document applies only to plural marriages and not to the polygamous cohabitation of those who were already married. It appears, however, that subsequently President Woodruff himself, and some other officials of the church, undertook to expand the meaning of that instrument so as to include polygamous cohabitation. What can you say, or what information can you give us, as to their power to expand it so as to bind you or any other member of the church?

Mr. TALMAGE. The manifesto, as has been properly stated, was adopted by a vote of the assembled church, and therefore became a rule equally binding upon the church with the law founded directly upon specific revelation. The interpretation of the rule that came later has never been submitted to the church. The church has never voted to accept that as a rule of the church, that it applied to polygamous cohabitation, as far as my knowledge goes. The interpretation placed upon that by President Woodruff was his own interpretation, and an interpretation that would have its effect upon a great many, I

have no doubt—those who were influenced and guided by him—and would have no effect, except that of stirring up opposition, among many others. But it certainly is not a binding interpretation, in the sense of one that has been adopted by the church.

Mr. WORTHINGTON. I mean it is not binding upon the church or any member thereof?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. As it would be if it had been submitted to the conference and approved by it?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. I believe there has been some recent action in the way of further prohibiting plural marriages, as late as last April. Have you that instrument, or anything showing that action? It has not yet been incorporated in this record, and it should be.

Mr. TALMAGE. I have in my hand the official report of the proceedings of the seventy-fourth annual conference of the Church of Jesus Christ of Latter-Day Saints, held in the tabernacle, Salt Lake City, April 3, 4, and 6, 1904, with a full report of the discourses; and on page 75 of this publication appears a report of certain remarks made by President Joseph F. Smith, and report of the action taken thereon.

Mr. WORTHINGTON. Let me have the book, please.

Mr. TALMAGE. I may add that I was present at the time those remarks were made, and at the time at which the action was taken.

Mr. WORTHINGTON (after examining the book referred to). This official statement is in the following words, and I offer it in evidence, along with the matter which appears here leading up to and following it, bearing upon the same subject. (Reading:)

“OFFICIAL STATEMENT.

“Inasmuch as there are numerous reports in circulation that plural marriages have been entered into contrary to the official declaration of President Woodruff, of September 26, 1890, commonly called the Manifesto, which was issued by President Woodruff and adopted by the church at its general conference, October 6, 1890, which forbade any marriages violative of the law of the land, I, Joseph F. Smith, president of the Church of Jesus Christ of Latter-Day Saints, hereby affirm and declare that no such marriages have been solemnized with the sanction, consent, or knowledge of the Church of Jesus Christ of Latter-Day Saints, and

“I hereby announce that all such marriages are prohibited, and if any officer or member of the church shall assume to solemnize or enter into any such marriage he will be deemed in transgression against the church, and will be liable to be dealt with according to the rules and regulations thereof, and excommunicated therefrom.

“JOSEPH F. SMITH.

“*President of the Church of Jesus Christ of Latter-Day Saints.*”

That was submitted to the conference by President Francis M. Lyman in the following resolution:

“RESOLUTION OF INDORSEMENT.

“*Resolved*, That we, the members of the Church of Jesus Christ of Latter-Day Saints in general conference assembled, hereby approve

and indorse the statement and declaration of President Joseph F. Smith, just made to this conference, concerning plural marriages, and will support the courts of the church in the enforcement thereof."

Mr. WORTHINGTON. It was adopted by the conference?

Mr. TALMAGE. It was.

Mr. WORTHINGTON. Unanimously?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. All of the matter in that connection will be put in the record.

The matter referred to is as follows:

"President SMITH. * * * Now, I am going to present a matter to you that is unusual, and I do it because of a conviction which I feel that it is a proper thing for me to do. I have taken the liberty of having written down what I wish to present, in order that I may say to you the exact words which I would like to have conveyed to your ears, that I may not be misunderstood or misquoted. I present this to the conference for your action:

"OFFICIAL STATEMENT.

"Inasmuch as there are numerous reports in circulation that plural marriages have been entered into contrary to the official declaration of President Woodruff, of September 26, 1890, commonly called the manifesto, which was issued by President Woodruff and adopted by the church at its general conference, October 6, 1890, which forbade any marriages violative of the law of the land, I, Joseph F. Smith, president of the Church of Jesus Christ of Latter-Day Saints, do hereby affirm and declare that no such marriages have been solemnized with the sanction, consent, or knowledge of the Church of Jesus Christ of Latter-Day Saints; and

"I hereby announce that all such marriages are prohibited, and if any officer or member of the church shall assume to solemnize or enter into any such marriage he will be deemed in transgression against the church, and will be liable to be dealt with according to the rules and regulations thereof and excommunicated therefrom.

"JOSEPH F. SMITH,

*"President of the Church of Jesus Christ of
Latter-Day Saints."*

"They charge us with being dishonest and untrue to our word. They charge the church with having violated a 'compact,' and all this sort of nonsense. I want to see to-day whether the Latter-Day Saints representing the church in this solemn assembly will not seal these charges as false by their vote.

"President Francis M. Lyman presented the following resolution, and moved its adoption:

"RESOLUTION OF ENDORSEMENT.

"Resolved, That we, the members of the Church of Jesus Christ of Latter-Day Saints, in general conference assembled, hereby approve and endorse the statement and declaration of President Joseph F. Smith just made to this conference concerning plural marriages, and will support the courts of the church in the enforcement thereof."

"The resolution was seconded by a number of presidents of stakes and prominent elders. Elder B. H. Roberts, in seconding the resolution, spoke as follows:

"In seconding the resolution that has just been read—which I most heartily do—I desire to state at least one reason for doing it. As remarked by the president, the Church of Jesus Christ of Latter-Day Saints has been accused of being covenant breakers with this nation. Of course, there never was, and could not be, any compact between the church and the General Government of the United States; but there could be a compact between the State of Utah and the United States, and there was such a compact made in the constitution of our State, by and through the constitutional convention. And now I am pleased with the opportunity of the church saying in its official capacity that the Latter-Day Saints not only now are, but have been, true to the compact between the State of Utah and the United States, and that they are true to the constitution of the State, which, by express provision, forever prohibited plural or polygamous marriages, and made that irrevocable, without the consent of the United States. The adoption by the church of this resolution should put to silence those who have accused us of being covenant breakers."

"The resolution was then adopted, by unanimous vote of the conference."

MR. WORTHINGTON. Doctor, you have used the expression here "holding the keys" in connection with that revelation involving polygamy, when it was given to Joseph Smith, jr., that he was the only man who held the keys to that power. He only, at that time, or some person delegated by him, could make a plural marriage that would be valid according to the laws of the church. Am I right in that?

MR. TALMAGE. Yes, sir.

MR. WORTHINGTON. From that time on down to the time that President Woodruff issued this manifesto, which the church approved in conference assembled, the same principle obtained?

MR. TALMAGE. Yes, sir.

MR. WORTHINGTON. That a plural marriage could not be valid, according to the law of the church, only when celebrated by the president, or by somebody authorized by him to celebrate it. Is that right?

MR. TALMAGE. That is strictly true.

MR. WORTHINGTON. Then when this revelation which is called the manifesto came and it was submitted to the people and accepted by them, that power was taken away from the president, was it not?

MR. TALMAGE. Yes, sir.

MR. WORTHINGTON. So that since the 6th of October, 1890, the president of the church has had no power to solemnize a plural marriage according to the law of the church, even?

MR. TALMAGE. That is true.

MR. WORTHINGTON. And no power to authorize anybody else to celebrate one?

MR. TALMAGE. That is true.

MR. WORTHINGTON. So that if any person has undertaken to enter into plural marriage, if any woman has become the plural wife of a husband since the 6th day of October, 1890, she is no more a wife by the law of the church than she is by the law of the land?

MR. TALMAGE. That is true.

Mr. WORTHINGTON. And it is not in the power of the president to revive the old system so that he can make a valid plural marriage or authorize one, unless he does it through the general conference of the church?

Mr. TALMAGE. Certainly. It is now a rule of the church that that power shall not be exercised. The power is there, but the exercise of it is entirely stopped; and a rule of the church thus made and sanctioned is equally binding with the law founded upon revelation, and the president therefore has in one sense half voluntarily, inasmuch as he was the chief individual to bring it before the conference, but by the action of the conference, properly speaking, has surrendered that power as far as its exercise is concerned.

Mr. WORTHINGTON. It takes the action of the people to restore it, does it not?

Mr. TALMAGE. Most assuredly.

Mr. WORTHINGTON. On this subject of the enforcement of the manifesto, Mr. Reynolds was examined at some length, and stated in substance that he did not know anything had been done toward actively enforcing the manifesto. Can you tell us anything on that subject? He was asked especially with reference to the seventies. He was a member of the first quorum of the seventies, I think.

Mr. TALMAGE. I have read the evidence given by Mr. Reynolds, to which counsel makes reference, and if I remember correctly the question was as to whether the first council of the seventies had done anything in their capacity as missionaries, and the capacity of officers directing missionary labor, to carry out the provisions of that. Am I correct?

Mr. WORTHINGTON. Yes; that is right.

Mr. TALMAGE. In that connection I would say that in the year 1893, three years after the date of the manifesto, a work was published, known under the title of *Outlines of Ecclesiastical History*, by Elder B. H. Roberts. Mr. Roberts was then, and is still, one of the seven presidents of the seventies, or one of the first council of the seventies, as the quorum is officially called.

I have in my hand a copy of the first edition, issued in the year named, and I find therein a dedication in these terms:

"Dedication. To the seventies, that body of men upon whom, under the direction of the twelve apostles, devolves the responsibility of preaching the gospel and defending the truth in all the world, this work is affectionately dedicated."

The significance of this lies in the fact that this book was placed in the hands of the seventies, not only by its formal dedication, but by action taken by the seven presidents of seventies, as I understand on inquiry, making this a text-book for them. In this work there occurs a very full account of the incidents leading up to the issuance of the manifesto, and of the manifesto itself. On page 446 of this first edition of the work named—

Mr. TAYLER. We have had Mr. Roberts on the stand about it.

Mr. WORTHINGTON. Let me see the passage to which you refer. I want to see if that has been put in evidence.

Mr. TALMAGE. I was about to say simply that there begins the series of paragraphs giving the account to which I have referred.

Mr. TAYLER. I have no objection at all to its going in.

The matter referred to is as follows:

"14. *Enactments of Congress against plural marriage.*—For ten years the practice in Utah of this system of marriage met with no opposition from the United States. But in 1862 a law was enacted by Congress to punish and prevent the practice of polygamy in the Territories of the United States. The penalties affixed were a fine, not to exceed \$500 and imprisonment not to exceed five years. For twenty years, however, the law remained practically a dead letter. It was claimed by the saints that it was an infringement of the religious liberty guaranteed by the Constitution of the United States, since it prohibited the free exercise of religion. For twenty years no pronounced effort was made by the officers of the General Government to enforce the law. In 1882, however, the law enacted twenty years before was supplemented by what is known as the Edmunds law. In addition to defining the crime of polygamy—for which it retained the same penalties as the law of 1862—the Edmunds law also made the cohabiting with more than one woman a crime, punishable by a fine not to exceed \$300 and by imprisonment not to exceed six months. This law also rendered persons who were living in polygamy, or who believed in its rightfulness, incompetent to act as grand or petit jurors; and also disqualified all polygamists for voting or holding office. This law of 1882 was supplemented by the Edmunds-Tucker law—enacted in 1887—which made the legal wife or husband, in case of polygamy or unlawful cohabitation, a competent witness, provided the accused consented thereto; it also enlarged the powers of United States commissioners and marshals, and required certificates of all marriages to be filed in the office of the probate court. The violation of this last provision was a fine of \$1,000 and imprisonment for two years. The law disincorporated the church, and ordered the Supreme Court to wind up its affairs, and take possession of the escheated property.

"15. The laws were rigorously enforced by the United States officials, special appropriations being made by Congress to enable them to carry on a judicial crusade against the Saints. The prominent church officials were driven into retirement; others into exile. Homes were disrupted; family ties were rent asunder. Upwards of a thousand men endured fines and imprisonment in the penitentiary rather than be untrue to their families. Every effort of the Government to deprive the people of what was considered their religious liberty was stubbornly contested in the courts, until the decision of the Supreme Court of the United States was obtained. While some of the proceedings of the courts in Utah in enforcing the anti-polygamy laws were condemned, the laws were sustained as constitutional. The court also held that the first amendment to the Constitution, which provides that Congress shall not prohibit the free exercise of religion, can not be invoked against legislation for the punishment of plural marriages. Meantime the Government was relentless, and still more stringent measures than those already enacted were threatened.

"16. *Discontinuance of plural marriages.*—In the midst of these afflictions and threatening portents, President Wilford Woodruff besought the Lord in anguish and prayer, and the Lord inspired him to issue the manifesto which discontinued the practice of plural marriages. At the semi-annual conference in October following, the action of President Woodruff was sustained by a unanimous vote of

the conference, and plural marriages are discontinued in the church. (See notes 6, 7, 8, end of section.)

"17. In this matter of plural marriage, the Latter-Day Saints are neither responsible for its introduction nor for its discontinuance. The Lord commanded its practice, and in the face of the sentiment of ages and in opposition to the teachings of their own traditions, many of the saints obeyed the commandment, and in the midst of weakness, difficulties, and dangers sought to carry out that law as revealed to them. For about half a century they maintained its practice in the face of opposition sufficient to appall the stoutest hearts. They defended it in the public press, proclaimed it from the pulpit, debated it on the platform with all who chose to assail it, and practiced it in their lives, notwithstanding fines and imprisonments threatened; and when the power of the Government was vigorously employed to enforce its laws against this institution, hundreds of men cheerfully endured both fines and imprisonment rather than be untrue to it. A whole generation had been born and had grown to manhood and womanhood in this marriage system, and the affections of family ties were entwined with it. Then, under the pressure of suffering brought upon the people through the laws of the United States, the Lord inspired the president of the church to proclaim its discontinuance, and the people with hearts bursting with grief submitted to the will of heaven, and there the matter rests. If the labors and sufferings of the Church of Christ for this principle have done nothing more, this much at least has been accomplished—the saints have borne testimony to the truth. And it is for God to vindicate His own law and open the way for its establishment on the earth, which doubtless He will do when His kingdom shall come in power, and when His will shall be done in earth as it is in heaven."

Notes 6, 7, and 8, referred to in paragraph 16, above, are as follows:

"6. *The discontinuance of plural marriage.*—The clause in President Woodruff's manifesto which discontinued plural marriage is as follows: 'Inasmuch as laws have been enacted by Congress forbidding plural marriages, which laws have been pronounced constitutional by the court of last resort, I hereby declare my intention to submit to those laws, and to use my influence with the members of the church over which I preside to have them do likewise. * * * And I now publicly declare that my advice to the Latter-Day Saints is to refrain from contracting any marriage forbidden by the law of the land.'

"Following is the resolution presented to the semiannual conference in the October following. It was presented by Lorenzo Snow, the president of the twelve apostles: 'I move that, recognizing Wilford Woodruff as the president of the Church of Jesus Christ of Latter-Day Saints, and the only man on the earth at the present time who holds the keys of the sealing ordinances, we consider him fully authorized, by virtue of his position, to issue the manifesto which has been read in our hearing, and which is dated September 24, 1890; and that as a church in general conference assembled we accept his declaration concerning plural marriages as authoritative and binding.' The vote to sustain the foregoing motion was unanimous.

"7. *Basis on which the manifesto was issued.*—Verily, verily I say unto you, that when I give a commandment to any of the sons of men,

to do a work unto my name, and those sons of men go with all their might and with all they have to perform that work, and cease not their diligence, and their enemies come upon them and hinder them from performing that work, behold it behoveth me to require that work no more at the hands of those sons of men, but to accept of their offerings: (Revelation given January 19, 1841. Doc. and Cov., sec. CXXIV.) It is on this basis that President Woodruff has felt himself justified in issuing this manifesto. * * * We have waited for the Lord to move in this matter, and on the 24th of September President Woodruff made up his mind that he would write something, and he had the spirit of it. He had prayed about it and had besought the Lord repeatedly to show him what to do. At that time the spirit came upon him, and the document that has been read in your hearing was the result. I know that it was right, much as it has gone against the grain with me in many respects. * * * But when God speaks, and when God makes known His mind and will, I hope that I and all Latter-Day Saints will bow in submission to it.—(Geo. Q. Cannon, in a sermon, October 6, 1890.)

"I want to say to all Israel that the step which I have taken in issuing this manifesto has not been done without earnest prayer before the Lord. * * * I have done my duty, and the nation of which we form a part must be responsible for that which has been done in relation to that principle (plural marriage).—(President Woodruff, in a sermon, October 6, 1890.)

"8. *Testimony from God promised that the manifesto was inspired.*—I have received a revelation and a commandment from the Lord, which I have not revealed to any man, which I shall reveal to this assembly, and the command of the Lord I shall give to this people, which is this: The Lord has revealed to me that there are many in the church who feel badly tried about the manifesto, and also about the testimony of the presidency and apostles before the master in chancery. The Lord has commanded me to put the following question to the Saints, and those who will give strict attention to it shall have the Holy Ghost to be with them to inspire them to answer that question for themselves, and the Lord has promised that the answer will be to all alike. The question is this: Which is the wisest course for the Latter-Day Saints to pursue—to continue to attempt to practice plural marriage, with the laws of the nation against it and the opposition of 60,000,000 of people and at the cost of the confiscation and loss of all the temples, and the stopping of the ordinances therein, both for the living and the dead, and the imprisonment of the first presidency and twelve, and the leaders of heads of families in the church, and the confiscation of the personal property of the people (all of which of themselves would stop the practice), or, after doing and suffering what we have through our adherence to this principle, to cease the practice and submit to the law, and through doing so leave the prophets, apostles, and fathers at home, so that they can instruct the people and attend to the duties of the church, and also leave the temples in the hands of the Saints, so that they can attend to the ordinances of the gospel, both for the living and the dead? Now, the inspiration of the Lord will reveal to any person which course wisdom would dictate us to pursue. And the Latter-Day Saints throughout all Israel should understand that the first presidency of the church and the twelve apostles are led and guided

by the inspiration of the Lord, and the Lord will not permit me nor any other man to lead the people astray."—(President Woodruff, at Box Elder quarterly conference, October 25, 1891. *Juvenile Instructor*, Vol. XXVI, p. 671.)

Mr. TALMAGE. Will you indulge me one moment, so as to permit me to add that for the purpose of satisfying myself upon the matter I made inquiry as to whether any official action had been taken by the seven presidents of the seventies, and was permitted to examine their minute book, and I find in that minute book, under date of December 8, 1892—the published book itself bears the imprint of 1893; it came out in the early part of the year—a record of an adoption of the *Outlines of Ecclesiastical History* as a text-book for the seventies, and an approval of it being sent out authoritatively by that council.

Mr. TAYLER. That is what we tried to prove and could not. That is all right.

Mr. WORTHINGTON. I am glad you are happy now.

Mr. TAYLER. I am. I have the ecclesiastical seal of approval on that book.

Mr. WORTHINGTON. Has your attention been directed to what is called the rule here, which is found on page 168 of the record, being the instrument which provides that certain officials of the church are required to ask consent, or get leave, or something of that kind, before engaging in pursuits which are inconsistent with their ecclesiastical position?

Mr. TALMAGE. I have read the pages to which you refer.

Mr. WORTHINGTON. Have you here a letter on that subject from Mr. Roberts, which was published in the *Deseret News* of January 15, 1897?

Mr. TALMAGE. Yes, sir. The article referred to appeared in the *Deseret Semi-Weekly News*.

Mr. WORTHINGTON. Have you read that article?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Does that express your own views of what is the understanding of the church and of the members of the church as to the effect of the meaning of that rule?

Mr. TALMAGE. Yes, sir; I consider that a very full statement, and I agree with the facts there expressed.

Mr. WORTHINGTON. Then, Mr. Chairman, in order to save time in going over the matter with the witness, I will ask to have that incorporated in the record as being his views as well as those of the members of the church generally.

Mr. TAYLER. Do you want it all to be printed?

Mr. WORTHINGTON. Yes.

Senator McCOMAS. What is the purport of it?

The CHAIRMAN. Has it been in before?

Mr. WORTHINGTON. No; it has not been put in. In answer to Senator McComas, I will give the purport of it at once. The purport of it is nothing more than requiring that a man who is engaged in the performance of ecclesiastical duties must not abandon those duties to engage in something else without getting permission.

Mr. TAYLER. Mr. Roberts testified very elaborately on that subject.

Mr. WORTHINGTON. But he did not testify as elaborately, or to my mind as clearly, as he does in this letter.

Mr. TAYLER. He might have testified differently from your view, but he could not do so more elaborately.

The article referred to is as follows:

CHURCH DISCIPLINE—ELDER B. H. ROBERTS REPLIES TO A LETTER ON THE SUBJECT, FULLY ANSWERING QUERIES AND OBJECTIONS, POINTING OUT ERRORS, AND SHOWING CLEARLY THE ATTITUDE OF FRIENDS AND ENEMIES OF THE CHURCH ON THE LATE ADDRESS, MISCALLED A "MANIFESTO," AND EVENTS SUBSEQUENT AND RELATING THERETO IN CHURCH AND POLITICAL MATTERS.

The following correspondence embraces a letter written to a church official by a resident of Ogden, whose name is withheld because he did not give express permission to publish it, and a response thereto by Elder B. H. Roberts, made previous to the latter's return a few days ago to his missionary labors in the East. The whole matter is commended to the careful consideration of the News readers as bearing upon the address to the church in April, 1896, on the subject of church officials engaging in politics, and events connected with and subsequent to the address down to the present time:

THE OGDEN LETTER.

OGDEN, UTAH, *December 21, 1896.*

Elder B. H. ROBERTS, *Centerville, Utah.*

DEAR BROTHER: There seems to be a well-defined and growing idea among an important portion of the thinkers of our church that the leaders are saddling the Lord with some things for which He is not responsible. The feeling exists that the name of the Lord is used too freely when pertaining to matters upon which there ought to be charity. The admitted truism for unity in things essential, liberty in things nonessential, but in all things charity, seems to have been abrogated: at any rate, that is what a great many are thinking, because it appears to be impossible for any man to express an opinion dissenting from the views of the leaders without being threatened with the loss of his ecclesiastical position and with the fear of concomitant complications in his political or commercial fortunes.

These things are fast destroying the faith of the people, especially of the younger classes, and if their faith is once shaken they will have to live infidel, and will, in all human probability, reach the final resting place believing that God's authority on the earth has been a phantom--the cloak of designing men.

and here, and only loyalty to the church in the present unfortunate crisis seems to me to defend the right of free speech which, whatever denial may be attempted, is not a fact in Utah at the present time. Free speech may exist theoretically, but not in fact to all intents and purposes.

I have reason to believe that you stand in the front rank of the nobler thought in Utah, and because of your exceptional mental and physical qualifications ought to be the foremost champion of the people in their ability to govern their church instead of permitting its affairs to be entirely dominated, as at present, by a few.

A series of leading articles in the Deseret News published at various times in November sets up the right of the church leaders, specifying

the first presidency, to "make, alter, change, or revoke the laws" of the church. Confirmatory of this view (revoking, it is to be reasonably assumed, the laws of the church with reference to the attitude of the first presidency toward civil affairs), the Deseret News presumes to voice the sentiments of the body of the church in the declaration (see editorial of November 17 last) that the election of a certain man (referring to Moses Thatcher) to the United States Senate by the coming Utah legislature would be an "insult" to the body of the church. I say "presumes" because it is impossible that the News can have any means of knowing the sentiments of the body of the church, although doubtless fully and officially representing the view of one or two leaders.

The Doctrine and Covenants distinctly lays down the principle of church government by "common consent," a principle which concedes the right of discussion and of dissent. There can be no common consent if the people can not dissent without incurring the displeasure of the authorities. That dissenters do incur this displeasure if they presume to dissent from the mere whim of certain leaders, you are probably as well able to testify to as any man in Utah; the Philistines have been after you more than once.

If the first presidency has the right to "change, alter, or revoke, or make laws" for the church, common consent is obsolete, as there can never exist two supreme law-making powers in any organization at one and the same time.

If the doctrine of common consent is true, and God has so declared it, and nothing can be done in the church without it, it is only reasonable to imply that, if the common consent is withheld, there rests no authority in the first presidency to "make, alter, change, or revoke the laws."

I am one of those who believe every man holding the priesthood is responsible to God for the conduct of the affairs of the church and for its purity. Believing thus it becomes my duty to use whatever ability and influence I may have in the suppression of wrongdoing in the church regardless by whom done, realizing that the liability to err is as great in the presiding quorum of the church as in the lowest. Infallibility is the Gibraltar upon which absolutism is safe, but before which the pillars of liberty crumble to dust.

It is with profound regret that I find myself unable to accept the so-called manifesto as the word of the Lord, or the policy that it is the duty of every member of the church to carry out. On the other hand, I believe it is the duty of every man, viewing the subject as I view it, to do all he can toward its repeal.

That you once held a similar position, whatever change your views may have undergone since, I have every reason to believe, because I was present on April 7 last (the day after the manifesto was read and adopted at general conference, and after it had obtained your signature), at the residence of Moses Thatcher, in Salt Lake, when you, in connection with some others, administered the ordinance of the sick to Brother Thatcher. You will remember you were mouth. I reported the blessing in shorthand, sitting by the side of Brother Thatcher, and you then made use of the following language:

"And now, O God, the Eternal Father, in all humility we appeal unto Thee in behalf of this brother, and we uphold him before Thee in our heart's best love. We ask Thee, our Father, to remember all

his faithfulness and devotion unto Thee, and to Thy great cause in the earth; to have respect unto this Thy servant, and to give unto us the life of this man, and to the Church of Christ and this man a life of usefulness in the future.

"Our Father, we will not let him go, and we ask Thee to have respect unto the priesthood and authority which thou hast given unto us. We ask Thee to hear our petition in his behalf. And, O Father, do Thou bless him, as in the name of Jesus Christ we bless him, and may health and strength be given unto him from this time henceforth, that he may begin to mend, and that Thy power may rest upon him, that he may become powerful and strong to plead for the rights and liberties of Thy people. To this end we petition Thee, and ask Thee to bless Thy servant. And, Brother Moses, in the name of the Lord, we say unto thee, 'Be thou made whole,' that thy recovery may begin from this hour, and we command it, in all humility; but in the name of the Lord Jesus Christ, amen."

It is evident that at this time your opinion was that the liberties of the people were jeopardized, and in view of the controversy then existing it is but fair to assume that these liberties were placed in jeopardy, in your judgment, by the manifesto which, for reasons best known to you, you had been led unconscientiously to sign.

It is probably true that there exists in Utah to-day a condition which makes it necessary, or in your opinion advisable, for you to hold in abeyance the opinions you honestly entertain on this subject, and the object of this letter is not in anywise to influence you to reverse yourself. My design is rather to point out the evil which can not fail to develop to the people of Utah and to the gospel of Jesus Christ by the continuance of a policy, the tendency of which is so wantonly in the direction of the destruction of the faith of the young people in God.

The conditions heretofore dwelt upon make it almost impossible for this question to be fought out and settled in the church, because the Deseret News, apparently voicing the sentiments of the first presidency, has laid down the principle that in them rests the authority to "make, alter, change, or revoke the laws." It is self-evident that this is subversive of the rights of every member of the church, annihilating the doctrine of "common consent" and reducing our membership to the position of mere automatons.

Permit me, however, to suggest that the question may be determined quite effectively by the election of Brother Moses Thatcher to the United States Senate, believing, as I do, that the great body of the church would feel honored rather than insulted at such a happy consummation. Your powers of body, heart, and intellect can not better be utilized for the welfare of the young State of Utah than in championing this cause before the legislature. His election would be accepted by the self-sufficient leader, whose personal ambition to become the dictator of the church is widely believed, as a warning of the people that, although their voice is now impotent in the councils of the church, in the affairs of state it is omnipotent.

Wishing you the compliments of the season, and with sentiments of high personal esteem, I am,

Your brother in the gospel,

ELDER ROBERTS'S REPLY.

SALT LAKE CITY, UTAH, *December 22, 1896.*

ELDER ———, *Ogden, Utah.*

DEAR BROTHER: What I must consider as your very extraordinary communication of the 21st instant to hand this evening. My first thought was to excuse myself from making any reply to it, on the ground of being hurried, first, with my preparations for returning to my missionary labors in the east; second, of being harassed with business cares at present, and, third, a desire to spend the few remaining days between this and my departure for the East quietly with my family, without being drawn into the consideration of those matters to which your letter invites my attention.

On second thought, however, it occurred to me that the matters of which your letter treat are of such importance that if I could throw any light upon the subject it was my duty to do so, even though it should be at the sacrifice of my personal convenience and desire to escape from entering into any controversy concerning the question involved.

You inform me that the faith of the people in the Gospel. "especially the younger classes," is being destroyed by the things referred to in your letter; and if that be true, or if the faith of one even is being destroyed, it is cause enough to make one set aside mere considerations of convenience and do what he can to stay the destruction of faith in God's great work. Hence I attempt an answer to your communication.

For convenience I have grouped the leading topics of your letter under what appears to me to be appropriate headings, and shall offer such remarks upon each as the state of the facts and the principles involved seem to warrant. In said grouping I may not have followed your letter strictly as to the order in which you have set down the several items, but I have done so as nearly as I could and preserve the relation of the items to each other.

I. *The right of dissent—Freedom of speech—The responsibility connected with the exercise of these rights.*—You begin by saying that "the admitted truism for unity in things essential, liberty in things nonessential, but in all things charity seems to be abrogated," meaning, of course, in the present policy of the church. You claim that the right of dissent from the views of the leaders of the church is infringed, and that "whatever denial may be attempted," the right of free speech is not a fact in Utah at the present time. To say that I was somewhat more than mildly surprised at this statement, is speaking within bounds. For a moment I was tempted to inquire what change had taken place in our young, and, I hope, thriving State during the six months of my absence on missionary labors. But of course I knew no change had come in that time; that nothing had occurred to destroy the right guaranteed in the young State's constitution concerning religious freedom, or the liberty of the individual, or of the press, to say whatever it was thought necessary for the individual or press to say, each being responsible, of course, for any abuse of that liberty. But I think I see how anxious you are at this point to say you did not mean that any restriction had been put on free speech or the freedom of the press by act of the State, but only that one can not

dissent from the opinions of the leaders of the church, or indulge in what you would call "free speech," without incurring the displeasure of the church leaders, "without," in fact, "being threatened with the loss of his ecclesiastical position, and with the fear of concomitant complications in his political or commercial fortunes." In thinking of free speech and the right to dissent from the opinion of those in authority, I never did so without taking into account the responsibility and consequences attendant upon the exercise of that liberty.

We are free, thank God, but we must be ready in the exercise of that freedom to accept without murmuring its responsibilities, and the consequences attendant upon its exercise. To put an extreme case: You and I believe that a man is at liberty to reject the gospel of Jesus Christ: but we also believe that if one so exercises his liberty to reject it, he will be under condemnation; and if he persists in it he will go to hell. But because of this can we say that the liberty of man does not exist? Certainly not. If a man elects to make such use of his freedom as to bring upon himself condemnation and sorrow, he ought not on that account to charge it to the want of liberty. If he deliberately chooses to take that course which leads to hell, he ought not to complain when he gets there because he does not find the joys of heaven. And this principle here presented by an extreme case may be seen operating, variously modified all along the line of human experience. The blatant atheist can, if he chooses, deride the faith of the Christian, and turn to ridicule what to that Christian is the sublimest thing under the sun; and atheists often do that; but it is not to be supposed that the blatant infidel can take that course and retain the respect and friendship of the Christian. But because the atheist loses the confidence and esteem of his Christian fellow-citizen by this exercise of his right to free speech, can we say that freedom of speech does not exist? The atheist exercises his liberty, but he loses the esteem of the Christian. That is the price he pays for the exercise of his liberty. It is for him to determine whether it pays or not.

A man dissents from the opinions of our church leaders; he is at liberty to do that, he is at liberty even to oppose a policy they may determine upon, but if so, in the nature of things, can he hope to have his course approved by them? And if he, himself, is holding an official position that gives great weight to his opposition, can it be expected that they will sustain him in that position? If these questions were put in relation to a matter deemed by you essential or vital to the church, you yourself would not hesitate to say that such an officer ought to be deposed. But you will say that you are only pleading for "liberty in things nonessential." But who is to judge of what is vital and essential, and what is not? I grant you it is not always easy to determine on which particular side of the line a given action may fall, whether on the side of the essential or nonessential; but clearly in a matter affecting the government of the church, the constituted authority in that church, whether considered as consisting of its great presiding councils, or the body of the church, or both of these combined, is the proper authority to decide what is vital and essential and what nonessential. If individuals disagree with that conclusion and rebel against it, they have no just cause of complaint if they lose somewhat the fellowship of those who acquiesce in the conclusion that the matter is vital and essential.

In the matter of the "manifesto," to which your letter refers, it was adjudged by the brethren constituting the general authorities of the church whose signatures were attached to it, to involve a principle vital in the government of the church, and that conclusion was confirmed by the action of the general conference of the church, and subsequently by the action of the conferences at the stakes, so that the church has passed upon that matter; it is the law of the church, and those who now undertake to overthrow it are guilty, in my judgment, of seeking to destroy a church regulation decided by the proper authority within the church to be vital and essential to its government. If there are individuals who refuse to accept this conclusion of the church, that is their right; that is, they are at liberty to take that course, and there is no power in the church or out of it to prevent them. They can speak against it, or write against it, denounce it, and refuse to be governed by it. They have full liberty to do all this, and so long as this is possible the freedom of speech is maintained; but they have no just cause to complain that the freedom of speech is infringed if their coreligionists refuse to fellowship them in such a course. The situation helps to illustrate that while liberty is a glorious thing it is also a solemn thing, attended by grave responsibilities, and, if a wrong use is made of it, followed by serious consequences from which there is no escaping.

II. *Effect on the faith of the people of what you suppose to be the infringement of the right of dissent and of free speech.*—On this head you say that "these things are fast destroying the faith of the people, especially of the younger classes, and if their faith is once shaken, they will have to live infidel, and will, in all human probability, reach the final resting place, believing that God's authority on the earth has been a phantom—the cloak of designing men." You are mistaken, my friend. Not even the faith of the younger classes is of such a sickly hue as this paragraph of your letter paints it. In my judgment, the faith of our people will not wither into a belief that "God's authority on earth has been a phantom," even if it should ever happen that the chief authorities of the church should make serious mistakes, or be guilty of doing positive injustice to individuals. Though the presidency of the church should violate every principle of the gospel, and outrage every sense of justice and humanity, it would still remain true that God revealed Himself to Joseph Smith, gave him power to bring forth the Book of Mormon, and through the ministry of angels did restore the holy priesthood and gave him a commandment to organize the Church of Christ on earth.

The action of the first presidency, or of the twelve, however unjust, can not affect these truths, and I must give the saints, both the old and the young, more credit for clearheadedness than your views would accord to them when you say that the denial of the right of dissent, and of the freedom of speech (even if it were true, which I do not allow) is destroying the faith of the people in the great work of God. I must think that the faith of the people is better founded than that view would represent it to be. If in the future the time should ever come that the high offices of the church should fall into the hands of corrupt and designing men, I can not believe that the saints would forsake the truths of which the spirit of God has borne record to them and conclude that they are myths because of the

actions of men; on the contrary, I should look to see the saints, true to their sublime faith, arise under the power of the living God and by the means appointed in the church reject such men and make way for the appointment of others who would not abuse the power of the priesthood.

III. *The ability of the people to govern the church.*—After paying me what you mean to be a personal compliment, you say I “ought to be the foremost champion of the people in their ability to govern their church, instead of permitting its affairs to be entirely dominated, as at present, by a few.” I merely refer to this in passing, in order to say, first, that you seem to take no account of the fact that the church is the church of Jesus Christ as well as the Church of the Latter-Day Saints, and that the Lord Jesus has retained some rights in the matter of its government, as well as having conferred some rights in the church government upon the saints, and of which more will be said under the next heading; second, to say that, so far as I am able to judge, the people now have their full share of power in the affairs of the church. The officers of the church are presented to them in their stakes four times a year, and in the general conferences twice a year, and if the conduct of any one, or all of them, is insufferable, they can be rejected, or if any one of them is guilty of gross sin, no matter how high in authority he may be, there exist tribunals before which he may be accused, and, if guilty, condemned, and if unrepentant, he can be cast out. As long as these conditions exist I can not see that the people stand in need of any champion as against the church authorities.

IV. *Church government—The doctrine of common consent—The powers of the first presidency.*—Your communication emphasizes the doctrine of common consent to the exclusion, as I think, of other considerations, chiefly the right of the voice of the Lord to a place in the government of the church. I would not for the world be understood as saying anything in disparagement of the great doctrine of common consent. It appeals too strongly to my disposition for me to do that. It is a principle that challenges at once my admiration and approval. When I read the fact that previous to the organization of the church the Lord instructed the Prophet Joseph, before attempting such an organization, to call together his brethren, and ascertain if they were willing that he should proceed to organize the church, and if they would sustain Joseph Smith as the first and Oliver Cowdery as the second elders; that is, presiding elders in the church, I greatly marveled at the condescension of God. The Lord had called Joseph Smith and Oliver Cowdery and had given them the holy apostleship before this. He gives His authority, which is His priesthood, to whom He will; but when they are to exercise that authority over others, it can only be done by the consent of those to be governed, and hence the law of the church subsequently formulated: “No person is to be ordained to any office in this church, where there is a regularly organized branch of the same, without the vote of that church.”

Thus, from the beginning the government of the church has been established on the consent of the governed, and I especially call your attention to the fact that no step of importance in respect to the affairs of the church has ever been taken but what the matter has been submitted for the approval of the people. The action of President Woodruff in the discontinuance of plural marriages, and the adop-

tion of this late rule in respect to politics, are recent illustrations and proofs of my statement. Of course, in the routine of administration of affairs in the church it is not practical or necessary to submit every movement made to the people. But the rightfulness and grandeur of the principle of common consent conceded, and ample provision made against the abuse of authority by providing for frequent elections on the principle of acceptance, there yet remains something else to consider in church government.

At the very meeting at which the church was organized in 1830, and before the session which witnessed the organization was adjourned, the prophet received a revelation, in which occurs this passage: "Behold, there shall be a record kept among you, and in it thou [meaning Joseph] shalt be called a seer, a translator, a prophet, an apostle of Jesus Christ, an elder of the church through the will of God the Father and the grace of our Lord Jesus Christ. * * * Wherefore, [meaning the church] thou shalt give heed unto all his words and commandments which he shall give unto you as he receiveth them, walking in all holiness before me. For his words ye shall receive as things the gates of hell shall not prevail against you; yea, and the if from mine own mouth, in all patience and faith; for by doing these Lord God will disperse the powers of darkness, and cause the heavens to shake for your good and His name's glory." This same power inheres in all succeeding presidencies of the church, and applies to President Woodruff to-day as it did to the Prophet Joseph Smith in his day, and to this fact I do not think you have attached sufficient importance, else you would not take such earnest exceptions to what you call the Deseret News setting up the right of the first presidency "to make, alter, change, or revoke the laws" of the church. I have not read the editorials of the Deseret News to which you allude, but certainly the News did not set up that doctrine; that doctrine is as old as the church itself.

The very day and hour the church was organized the Lord constituted the president of the church its prophet, seer, and lawgiver, strictly commanding the church to give heed "to all His words and commandments which he shall give unto you as he receiveth them, * * * for his words" said the Lord "ye shall receive, as if from mine own mouth, in all patience and faith." Doctrine and Covenants, XXI.) I do not think the Deseret News puts it stronger than that; it is the president of the church that receives the revelations of God and announces the law to the church. This is the law-making power of the church; there is no other. The people do not legislate for the church. The voice of the people is not the voice of the Lord, only as their voice is united with and becomes the same as the voice of God. It is from this source—the revelations of God through the prophet—president of the church—that the church has received its knowledge of the gospel and the power of the priesthood. It is true that these revelations, as they have been received from time to time, have been presented to the members of the church for their acceptance, and up to the present there always has been an overwhelming majority of the saints who have been sufficiently enlightened by the Spirit of God to accept the word of the Lord through His prophet and carry it out, and my faith is that it will always be so in this dispensation, for the reason that God has promised us that He will consummate His work in this dispensation.

Of course, if it should transpire that the church should reject the word of the Lord through His prophet, as they have the liberty to do, if they so elect, then they would not change the truth or the law, but would in effect say: "We will not accept the law of God;" and if that unhappy time ever comes, they must assume the full responsibility of the act which rejects the counsels of God. You will perhaps remember the fact that ancient Israel once did this in a very remarkable manner when they rejected the mild government of the judges and clamored for a king, that they might be like other nations; and when Samuel took the matter to the Lord, he was commanded to let them have their way, to give them a king, and apparently for the encouragement of Samuel, the Lord said: "They have not rejected thee, but they have rejected me, that I should reign over them. Harken unto their (the people's) voice," said the Lord, "howbeit, yet protest solemnly unto them, and show them the manner of the king that shall reign over them." (I Samuel, viii.) All of which the prophet did, but without avail, and Israel, by a sad experience through long periods of tyranny by reason of kingly rule, learned how solemn a thing it was to reject the word of God.

But you seem to think that the power above referred to as lodged in the president of the church is destructive of the principle of common consent, and on that head say: "If the first presidency has the right to 'change, alter, or make laws' for the church, common consent is obsolete and there can never exist two supreme law-making powers in any organization at one and the same time." The mistake you make is in considering the members of the church, through the operation of the doctrine of "common consent," as the one supreme law-making power in the church, whereas, in reality, it is not the law-making power at all. The Church of Christ is governed by the laws of God, which laws He reveals to the church through him who is the president thereof, and if the church should reject that law, they reject the law of God and would be under condemnation and under God's displeasure: for it can not be that He would be well pleased with those who reject His counsels. You are right in saying "There can never exist two supreme law-making powers in any organization at one and the same time." Nor has God appointed "Two supreme law-making powers" in His church. He has appointed but one, and that one the president of the church. And I apprehend that a very great amount of the difficulty encountered by yourself and others who may take the same view of matters as you do, arises from the fact that you attempt to displace the law-making power, or what would be more accurate to say, the law-announcing power, for the laws are the laws of God, which God has appointed in the church, with another, and that other the members of the church, through the operation of the doctrine of "common consent."

The Church of Christ subsists by reason of a voluntary acceptance of its doctrines and willing submission to its laws and discipline on the part of its members. People are converted to the truth it teaches, and of their own free will submit to its regulations; and as the church begins in a voluntary acceptance of its doctrines, so it continues; and as new truths are revealed, and changing conditions require new regulations, or irregularities call for the reaffirmation of existing laws, these measures are submitted to the members of the church that they may accept them, that they may assert their harmony with the laws of

God; and when the church doctrines and regulations are thus accepted, they are of course in force. Only so far does the doctrine of "common consent" enter into the making of laws for the church.

You further say that "if the common consent is withheld, there rests no authority in the first presidency 'to make, alter, change, or revoke the laws.'" If the church should revoke the word of the president of the church, which the saints are commanded to receive as the very word of God, then of course it may be said that things would come to a standstill, for, as already pointed out, the church can only exist as its members voluntarily accept its doctrines and submit to its regulations. But this phase of the question need not detain us longer, as it does not represent an issue in the present condition of affairs. "Common consent" is not withheld from the declaration of rules in relation to political affairs as affecting its high church officials. On the contrary it is accepted by the saints and is in force as a church regulation by the will of the presiding quorums and the consent of the church members. It follows, let me remind you, that those who are opposing it and seeking to destroy it are opposing and seeking the destruction of a rule regularly introduced by the presiding authorities and accepted by the church members, and therefore such parties are making war upon the church.

You will understand the above remarks on the doctrine of common consent as applying alone to its place in the making of laws, and not as related to acts of administration of affairs and the election by vote of acceptance of officers. In the latter relations it doubtless would have a somewhat wider scope than in relation to lawmaking for the church, but it is not necessary to discuss that here.

V. *Duty of the minority.*—You say you can not accept the so-called "manifesto" as "the word of the Lord, or the policy that it is the duty of every member of the church to carry out." On the contrary, you believe it to be the duty of every man who views the subject as you do to do all he can toward its repeal. Before a measure is adopted, when it is in the stage of formation, and under discussion, I believe it to be the right of every man honestly to express his views upon it, and if it does not seem to him to be right or fails to appeal to his judgment as a wise policy, it is his right, in a proper spirit, to oppose it. But when by action of those to whom it is submitted, and who have a right to decide, the decision goes against judgment and conviction, and the question has passed from the field of discussion to the realm of accomplished fact, then I think that that law is as binding upon the minority as upon the majority, and that it should be as loyally supported by those who opposed it as those who advocated it, until its wisdom is vindicated, or its folly made manifest and the way prepared for its repeal. Of course, if a policy is so utterly bad in one's judgment that one's conscience can not become reconciled to it, he has the alternative of leaving the society enacting it, but it is a solecism to think one can consistently stay within an organization and yet make war upon its laws and regulations.

I have been particular thus to state my views upon what I think should be the conduct of minorities, because you confidently declare the belief that I once held views similar to your own on this point. I disclaim that, however, and that most emphatically; and say that at no time have I entertained the views avowed by you. You cite as evidence of my entertaining such views the language used by me in

administering to Brother Moses Thatcher. The expression seized upon by you as such evidence is the one asking that Brother Moses "may become powerful and strong to plead for the rights and liberties of the people." "It is evident," you say, "that at this time your opinion was that the liberties of the people were jeopardized, and in view of the controversy then existing, it is but fair to assume that these liberties were placed in jeopardy, in your judgment, by the manifesto, weight upon a very slender thread. You certainly had to raise the to sign." To say the least of it, you have here hung a very heavy weight upon a very slender thread. You certainly had to raise the phrase with which you began your calculation to its tenth power in order to arrive at your conclusion. Of course, I can not remember the language I used on the occasion referred to; you may have reported it accurately for all I know. It may have been as fervent and earnest as your report makes it, for I was anxious for the recovery of Brother Moses and always felt in administering to him that if I could have imparted to him a portion of my own physical strength, or could have shared my own health with him, I would have done it without hesitation; for he was and is dear to me.

But know, Brother ———, once for all, that the manifesto was not in my mind any moment while administering to Moses on that occasion. Nor did I think then, any more than I do now, that there was any necessity for Moses Thatcher to be strong and powerful to plead for the rights and liberties of God's people against supposed assaults made upon those rights by the first presidency or by the manifesto. I had no thought of what you call "the controversy then existing" while administering to Moses Thatcher, and the phrase you select as justifying your conclusion could otherwise easily be accounted for. We have not yet seen the last assault made upon the rights and liberties of the saints. I fear, and in my judgment, in the future as in the past, there will be a necessity for strong and powerful men to plead for the rights and liberties of the saints. Then see what an unworthy thing your theory would make me. You believe that, well-nigh before the ink was dry which marks my signature to the "manifesto"—the day following its acceptance by the general conference—I was expressly asking God that Moses Thatcher might be raised up to overthrow it. You say that I "had been led unconscionably to sign it." I suppose you mean that I signed it without conscience; that is, without my conscience going with my act; and that, in your opinion, perhaps, justifies you in saying, as you do in the very next paragraph, "there exists in Utah to-day a condition which makes it necessary, or in your opinion advisable for you (me) to hold in abeyance the opinions you (I) honestly entertain on this subject." Surely, if one were seeking occasion for offense, he would find it here; for, taking it all in all, a worse case of cowardly double-dealing and despicable hypocrisy could not easily be conjured up. Judging from the whole tone of your letter, so far as it refers to me personally, rather than from this particular part of it, you do not intend to give offense, and where such intention is absent I do not believe in making one an offender for a word; but I would have you distinctly understand that my conscience went with my signature in the matter of signing the "manifesto," and that no condition exists in Utah to-day which makes it necessary or advisable to hold in abey-

ance any opinions I hold on this or any other subject, and the only thing lacking to make your language grossly insulting is the evident absence of such an intention. I stand squarely with the other general authorities of the church in connection with whose signatures my own appears on the so-called "manifesto," and with them stand responsible for its promulgation. If that act appears, in the estimation of some of my friends, to be inconsistent with positions I have formerly assumed, the change arises from a more perfect understanding of the facts and principles involved. I do not have so exalted an opinion of the extent of my information or the infallibility of my weak human judgment as to expect to be able to be found at all times in the present strictly consistent with conduct that is past, only in so far as consistency is to be found in acting day by day in strict accord with the light and convictions possessed at the time. But to-day, if I see the occasion for it, I shall revise the opinions and, as far as possible, correct the conduct of yesterday, and to-morrow do the same with the opinions and conduct of to-day, and so on to the end of life.

You say you are "one of those who believe every man holding the priesthood is responsible to God for the conduct of the affairs of the church for its purity." "Believing thus," you continue, "it becomes my duty to use whatever ability and influence I may have in the suppression of wrongdoing in the church, regardless by whom done." So far, if you will limit your doctrine by saying within the scope and legitimate sphere of the priesthood and office therein which you hold, and the correction is made through the means appointed in the church, I agree with that view; but when you add "that the liability to err is as great in the presiding quorum of the church as in the lowest," then I must dissent from that part of your doctrine. I think that ordination to a presiding position amounts to something. I read in the Bible that "Joshua, the son of Nun, was full of the spirit of wisdom, for Moses had laid his hands upon him." (Deut., chap. 34.) And so now, when men are ordained to fill responsible presiding positions, I believe that increased wisdom is given, and that they are not as liable to commit errors as those filling less responsible positions. Moreover, the presidency of the church occupy a more commanding position than an inferior quorum, have better opportunity for obtaining information concerning the work of God, than others; they are sustained by the daily faith and prayers of all the faithful saints, and are more abundantly entitled to inspiration of the Holy Ghost and the direct revelation of God than others. Do all these things count for nothing in your judgment? Were you not a little thoughtless when you made the remark here animadverted upon?

Your remark about infallibility being the Gibraltar of absolutism may be dismissed by reminding you of the fact that nobody claims infallibility for the men constituting the first presidency of the church. No claim of infallibility is set up for anything but the word of God, the law of God. But that is infallible.

VI. *The manifesto.*—And now, just a word on the document that has come to be called the "manifesto." The rule of conduct prescribed for the leading church officials in relation to seeking counsel before accepting nominations for political office, etc., was proposed and accepted for the purpose of maintaining discipline in the church;

for the purpose of preserving order in the church and guarding its interest from neglect by preventing them from becoming subordinated to other and less important interests. It was and is a church regulation purely. This has been affirmed by the church authorities repeatedly, and yet, with a persistency that, to say the least of it, is astonishing, and which, in my judgment, amounts to wanton perversity, there have been parties, even within the church, who set aside the word of the general authorities and say that the "manifesto" foreshadows and intends political interference and the domination of State politics by church officials. To the fearful eyes of these parties there appears coiled within it the serpentine chain that is to bind lasting fetters of slavery upon the limbs of "young Utah," unless a kind Providence shall raise up some man to break its links asunder! Other more moderate say that whatever the intentions of its authors and those who have accepted it in its practical working, it will result in church domination, etc.

The first class mentioned above, of whom I take it from the tone of your letter you are one, flatly refuse to believe the word of the 24 men whose signatures are attached to the document, who constitute the general authorities of the church. To that class these men—the authorities of the church—are designing knaves bent on a sly game at politics, or out-and-out liars and scoundrels, or the greater part of them are weakling fools, the mere puppets of one or two dominating minds that are scheming, ambitious, self-seeking scoundrels. There is no escaping this conclusion for those who persist in saying that the manifesto means politics, when the authorities of the church positively affirm that it was intended alone for the regulation and preservation of order in the church. For some unbelievers among us to take that position would not, of course, be very surprising; but what do you think, Brother ———, of members of the church who take that position? How long can they retain the fellowship of the saints or their standing in the church?

To the second class, who say that the practical workings of the regulation will be to bring to pass church interference in politics, I would say that they should be willing to accord some honesty to the gentlemen who promulgated what they assert is a church regulation merely, and wait until it is demonstrated that in its operations it interferes with the political rights and liberties of the citizens. Meantime, let me say that you and others may continue to say that this "manifesto" means politics—that is, that is a device by which high church officials mean to control the politics of the State; but I know that it was and is meant to be a church regulation for the good order of the church alone, and intended to establish a proper understanding among the officers of the church and to correct wrong impressions that had obtained concerning the attitude of high church officials to politics. Men in the future may continue to assert that this announced rule of the church means politics, as explained in the foregoing, but that will not alter its character any more than calling truth falsehood will make it so.

VII. *Settlement of the question by the "vindication" of Moses Thatcher.*—You express the opinion that it is almost impossible to settle this question brought up by the "manifesto," and involving, as you suppose, the principle of common consent, within the church. As a matter of fact there is no such issue to settle. The principle of

common consent as a factor of church government has not been violated. The rule of conduct in question, after being formulated by the general church authorities and proposed to the members of the church, was accepted by them; they gave their assent to it, and it is regularly established as a rule of the church by the announcement of the law to the people and their acceptance of it. Is it your idea that common consent means unanimous consent? If so, you are wrong. Government by unanimous consent is out of the question—utterly impracticable. There is no issue that can arise in the church but what can be settled within the church. To go outside the church to settle any difficulty that has arisen within the church means war upon the church—an utter lack of confidence in the institution which you and I believe God has founded. I pray you no longer entertain that thought.

Your proposition for the settlement of the supposed difficulty is a novel one, viz, the election of Moses Thatcher to the United States Senate, which event, you say, "Would be accepted by the self-sufficient leader whose personal ambition to become the dictator of the church is widely believed, as a warning of [from] the people that, although their voice is now impotent in the councils of the church, in the affairs of the State it is omnipotent."

I was extremely sorry when I read that remark, and I wondered what cloud of darkness could possibly have come over your mind; and in charity I must think you wrote that passage without thought. I pass over the injustice you do the member of the first presidency to whom you refer, and come directly to the consideration of your proposed settlement of the supposed difficulty by the election of Brother Moses Thatcher to the Senate. You complain of the News having said that his election to the United States Senate by the coming Utah legislature would be an "insult" to the church; whereas, in your judgment, his election would be a settlement of the questions that have arisen through the "manifesto," and that "the great body of the church would feel honored rather than insulted at such a happy consummation."

Let us see. First, the general church authorities formulated a rule to be followed by the leading church officials in respect to politics, which obtained the approval of all the general authorities of the church except one of the apostles, who was absent on a mission, and another apostle who refuses to accept it because, as he alleges, and that in the face of the protest of his brethren to the contrary, it is intended to be and will result in the domination of politics in the State by the church, and is, in fact, the forging of chains for the enslavement of the people.

(2) The aforesaid apostle refused to sign it, but it went before the general conference of the church and was upheld by the common consent of the church then assembled; and the apostle who refused to sign the document embodying the rule is not presented before the conference for acceptance as an officer of the church. That the rule promulgated by the authorities and accepted by the general conference might be more widely accepted by the church members, and out of respect for the very principle of common consent (which you seem to think is abrogated by the policy of the church in this matter), the document is presented to the stake conferences, and, I think, even to the ward conferences of the church, so that no rule ever promulgated

before by the church has been more widely accepted by the saints than this one, nor was the principle of common consent ever more thoroughly respected. Six months passed and another general conference of the church is held; no action is taken in the case of the suspended apostle, but extended explanations are made as to why he is suspended.

Meantime a political campaign is fought out. In the past the suspended apostle has been prominently in politics, and the year before was his party's candidate for United States Senator, but in the campaign of last fall he is not made a candidate for the Senate, though a Senator is to be chosen by the legislature elected. Nothing is said of him in his party's platform or the principle he is supposed in some way to represent by his opposition to his brethren. This campaign was at its height when the October conference was held, at which the reasons why the apostle was suspended from office were given. Still there was no exception taken by the political party of which he was a member. No voice even from the stump was heard in protest, so far as I have learned; nothing from the editorial columns of his party's press appeared. But after the election is over, and is won by the Democratic party—not on the issue, however, of exception being taken to the course the church had pursued with reference to Moses Thatcher, but on quite different issues—then Brother Thatcher steps forward and springs upon the members-elect to the legislature an issue upon which they were not elected, and asks them for their support.

In his interview published in the Salt Lake Tribune, in which he announces his willingness to become a candidate to the Senate, he is quoted as saying: "I prefer private to public life, and the peace of the social circle to the strife of politics. If I had not been placed in a position involving a great principle, I could not be tempted to accept even the high office of United States Senator. But if Utah, if young Utah, feels that my selection would be a vindication of that for which I have contended and would aid in preventing the forging of chains upon the people of this State, I should accept the office of Senator should it be tendered me." Brother Thatcher does not ask to be elected on any issue of the campaign, or because of any peculiar fitness or qualification he possesses above other candidates (though in my judgment he does possess some qualifications superior to those of the other candidates), but solely because of the attitude he has assumed toward the so-called "manifesto." Remember that the overwhelming majority of the Democratic party are of the Mormon faith. Remember that the Mormon people have almost unanimously adopted the so-called "manifesto" as a church regulation; and Moses Thatcher and his friends ask the members-elect to the legislature to send him to the Senate because of his opposition to a rule of the church which they themselves assented to. Under these circumstances I do not hesitate to say that his election to the United States Senate would be a gross insult to the members of the Mormon Church, for he is virtually asking their representatives to elect him to the Senate because he is still opposed to a rule which they in their capacity as church members have accepted by a free vote as a rule of their church.

If he thinks that they have accepted that rule under duress, or yielded to it because of their weakness or the overbearing tyranny of their leaders, then he insults their manhood and their intelligence. But

should he succeed in being elected because of his opposition to this church regulation, let no one suppose that it would be a vindication of Brother Thatcher's course, for the members-elect of the coming legislature are not elected with reference to that question.

If that question had been before the people of Utah in the last election, and the Democratic party had championed the cause represented by Moses Thatcher, viz, opposition to the church rule in question, favorable as were all other conditions for Democratic success, there is not a man of sense but that knows there would have been no Democratic victory in Utah this year. The issue he asks to be elected on is an improper one in and of itself, because he asks to be elected for his opposition to a church. It is doubly an improper one because it was not an issue of the campaign, which resulted in a Democratic victory. It is, in addition, impolitic for the Democratic party, as it would be in the nature of a direct and positive insult to the great majority of that party, and would not augur well for future Democratic control of the State of Utah. Were I an enemy to Democracy, instead of now and always an ardent supporter of it, I might urge the Democratic legislators-elect to take the course now urged upon them by the chief organ of Republicanism; but as I desire to see the ground gained by the Democratic party of Utah maintained, I would to the best of my poor abilities dissuade them from following the course you propose. The great principle of separation of church and state is in no danger; nor is there any forging of chains for either the minds or limbs of young Utah. Let us as soon as possible have peace.

Very truly, yours,

B. H. ROBERTS.

Mr. WORTHINGTON. Doctor, on page 804 of volume 1, of this record, Mr. Powers said that in a certain case a question involving the issue of a liquor license had been referred to the high council of Utah stake, I believe it was. I will find it in a moment. He spoke of or recalled an incident of that kind that occurred in the city of Provo about the time of this Jones matter. Have you read that so that you can identify the transaction?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. I believe you were living at Provo, then?

Mr. TALMAGE. I was.

Mr. WORTHINGTON. You were then a member of that very high council?

Mr. TALMAGE. I was.

Mr. WORTHINGTON. Can you tell me whether anything of that kind took place?

Mr. TALMAGE. Nothing of the kind took place. I was not only a member of the high council to which reference is there made, but I was also a member of the city council, which body is said to have made the transfer or reference. I took part in the discussion when the subject was up before the city council, and was a member of the high council and attended all the sessions. I know that no such reference was made, and I would like to add that if any attempt to refer a matter from the city council to the high council had been made the action would have been regarded as an absolute absurdity. The two have always been distinct during the period of my experience--that is, the church organization and the municipal, county, or State organizations.

Mr. WORTHINGTON. In order that there may be no mistake about

that, I see that he testified this happened in or about January, 1890, and he says:

"The question was up before the city council"—

That is, of Provo—

"As to whether they would prohibit the sale of liquor, and they referred the matter to the church high council."

You say that is a mistake?

Mr. TALMAGE. Most assuredly; and that date is wrong. It was earlier than 1890.

Mr. TAYLER. What was?

Mr. TALMAGE. The date Colonel Worthington has just read from Judge Powers's testimony. I know it from my personal experience.

Mr. TAYLER. I understood you to say that nothing happened at all.

Mr. TALMAGE. Oh, no, sir.

Mr. WORTHINGTON. He identifies it. He says about the time of the Jones matter. Was it the Jones matter you were referring to?

Mr. TALMAGE. Perhaps I did not understand your question fully.

Mr. WORTHINGTON. What I have just read is preceded, on page 803, by this decree, as it is called here:

"PROVO CITY, UTAH, *January 3, 1890.*

"At a meeting of the high council of the Utah stake of Zion held on the above date, on motion of Charles D. Glazier, the rules were suspended, and Joseph D. Jones, of the Fourth ward, Provo City, of this stake, be and is hereby excommunicated from the Church of Jesus Christ of Latter-Day Saints, for apostacy."

Then on the next page Mr. Powers says:

"I recall an incident from the city of Provo that occurred about the time of this Jones matter. The question was up before the city council"—

And so on.

Mr. TALMAGE. In saying there must be a mistake in the date, I had reference to this assertion, because the incident there referred to with reference to the enacting of an ordinance licensing the sale of liquor, took place some time prior to the date of the final action in the Jones matter; but the date, perhaps, is not essential. I reiterate that there was a very strong agitation stirred up in Provo City, and very strong debates occurred in the city council as to the propriety of passing a liquor license ordinance, but that that question was in no way referred to the high council of Utah stake, the only high council having there jurisdiction in church matters.

Senator McCOMAS. How long did you serve in the city council?

Mr. TALMAGE. I was elected for a term of two years and withdrew from the city, changing my place of residence a short time before my term of office expired.

Senator McCOMAS. So that you were there and could speak for a period of not quite two years.

Mr. TALMAGE. Very true, sir; but I was there from the beginning of the agitation on the liquor license question until the ordinance had been passed, and I was the city justice who first administered the ordinance.

Senator McCOMAS. And there was only one such agitation in a generation, was there?

Mr. TALMAGE. There was no need for another, as the ordinance was passed and put into effect and is still in effect there.

Mr. WORTHINGTON. Are you sure, Mr. Talmage, that you are speaking of the same thing Mr. Powers was talking about?

Mr. TALMAGE. From what counsel has read and from my own reading, I take it that Judge Powers could have had reference to no other incident or occurrence than the one to which I have referred, for there never has been another agitation of that kind resulting in the passing of a liquor license, and the liquor license ordinance was passed prior to the date of this final action in the Jones matter, to my certain knowledge, and that liquor license ordinance is in effect now.

Mr. TAYLER. I gathered that you were referring to some particular person's license, not to the general ordinance.

Mr. WORTHINGTON. I read what Mr. Powers said on the subject.

Mr. TAYLER. What page was it?

Mr. WORTHINGTON. Page 804.

Mr. TAYLER. Before that time was prohibition the rule in that county?

Mr. TALMAGE. Before that time prohibition was a failure in that town.

Mr. WORTHINGTON. Have you taken your endowments in the church?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. When.

Mr. TALMAGE. I think in the year 1882. Yes; I am fairly certain as to the date.

Mr. WORTHINGTON. Have you passed through that ceremony at any time since?

Mr. TALMAGE. I have witnessed the ceremony since, and have taken part in it, not for myself, but, according to the rules and procedure of the church, in a vicarious position.

Mr. WORTHINGTON. And down to what time?

Mr. TALMAGE. Oh, I have not witnessed the ceremony for many years.

Mr. WORTHINGTON. On about how many occasions would you say, all told, including the occasion when you went through yours?

Mr. TALMAGE. Oh, I have passed through and witnessed the ceremonies or taken part therein between one and two score times.

Mr. WORTHINGTON. I want to ask you whether in the course of that ceremony anything occurs like this, that the persons who are taking their endowments agree to what I read or to that in substance:

"You and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation?"

Mr. TALMAGE. No.

Mr. WORTHINGTON. Anything like that?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. Or anything which in any wise relates to a man's obligations or duty to his country or to his State?

Mr. TALMAGE. Absolutely nothing, according to my remembrance.

Mr. WORTHINGTON. Is there anything about avenging the blood of Joseph Smith, jr., the prophet?

Mr. TALMAGE. No, sir.

Senator McCOMAS. Do you remember the terms of that oath?

Mr. TALMAGE. I know not which oath is referred to, and, moreover, I know of no oath that is administered or taken in any part of the endowment ceremony. I know I have never taken an oath there.

Senator McCOMAS. Do I understand you now to say you do not know to which oath Mr. Worthington is referring?

Mr. WORTHINGTON. I did not use the word "oath." I think, Senator.

Senator McCOMAS. What word did you use?

Mr. WORTHINGTON. The word "obligation."

Senator McCOMAS. You do not know now to which obligation or oath counsel referred when he was asking the question?

Mr. TALMAGE. I understood counsel to read to me something and ask me if I recognized that as forming a part of the endowment ceremony in any phase.

Senator McCOMAS. In any part?

Mr. TALMAGE. Yes; and I answer no.

Senator McCOMAS. Can you remember all of that ceremonial which you say does not include this or anything like it?

Mr. TALMAGE. No; I do not remember details. It is many years since I have witnessed the ceremony; but I know that what has been read is not a part of the ceremony.

Senator McCOMAS. That is, from the impression of years ago made upon your mind?

Mr. TALMAGE. Yes, sir.

Senator McCOMAS. You only have an impression as to what is included in that ceremonial, but you have a very decided opinion that this is not anywhere near it.

Mr. TALMAGE. Yes; I am willing to accept that as a fair statement of my position in the matter.

Mr. WORTHINGTON. Doctor, there has been an expression used here about a member being out of harmony with his quorum in the church. Have you an exposition of that subject which you accept as being correct, made by President Smith in January, 1905?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. So that we can shorten matters by introducing that instead of inquiring of you?

Mr. TALMAGE. Yes, sir; an article appeared in the Improvement Era, volume 8, No. 3, January, 1905.

Mr. WORTHINGTON. Is that a work or periodical that is published under the auspices of some society that is connected with the church?

Mr. TALMAGE. It is published under the auspices of the general board of the Young Men's Mutual Improvement Association, of which board Joseph F. Smith, president of the church, is general superintendent, and of which publication Joseph F. Smith is the senior editor. The article in question appears as an editorial under the title "Harmony," beginning on page 209 and extending to page 215.

Mr. WORTHINGTON. Mr. Chairman, I will ask to have that inserted in the record in this place on this much talked of topic.

Mr. TAYLER. Is it by Joseph F. Smith?

Mr. TALMAGE. It is, sir.

Mr. TAYLER. As a matter of fact?

Mr. TALMAGE. Yes.

Mr. TAYLER. Does the article itself show it?

Mr. TALMAGE. Yes, sir; it is signed by Joseph F. Smith.

Mr. WORTHINGTON. The witness says he accepted it as a correct exposition.

Mr. TAYLER. Yes; I understood that.

The article referred to is as follows:

"HARMONY.

"Within the past two years much has been said in many quarters, both within the church and outside of it, upon the subject of 'harmony' as a doctrine of the church; how it affects the membership of the church, and as it is supposed to subsist among members of the respective quorums of the priesthood. Not only have some leading elders expressed views upon the subject, but it has also been the subject of discussion in high councils in some of the stakes. Also attorneys at law, more or less learned in nice distinctions and the force of words, have given their interpretation of 'harmony,' as understood in the Church of Jesus Christ of Latter-Day Saints, before the Senate Committee on Privileges and Elections.

"In view of this very wide discussion of so interesting, and, to the church, so important a subject, it may not be amiss for me to say a word. To begin with, I may be permitted to express at least a mild degree of surprise at the fact that some, not members of the church, in their presentation of the subject, have given a coloring of sinister import to their definitions, as if there were a menace to the full and perfect liberty of the members of the church in what I call our doctrine of harmony. It will not be necessary for me to expressly disclaim this sinister import, this 'menace' to liberty, in our doctrine of harmony, as I hope the treatment of the subject itself will dispel all such false ideas respecting our views.

"Harmony! What is it? What is it, in its universal aspect? What is it, with special reference to the understanding the Latter-Day Saints should have of it, as affecting the membership of the church or subsisting in the quorums of the priesthood? In its universal aspect harmony is described as 'accord in feeling, manner, or action: * * * completeness and perfection, resulting from diversity in unity.' 'Concord' and 'agreement,' as well as 'accord,' are given in the dictionaries as synonyms of harmony. But it is remarked by the latest authorities upon these synonyms that 'concord applies more volition than accord; as, their views were found to be in perfect accord; or, by conference concord was secured. We do not secure accord, but discover it. Conformity is (or may be but) submission to authority or necessity.' So, also, 'we may speak of being in accord with a person on one point, but harmony is wider in range'—that is, it implies accord at all points. Then, as to agreement: 'Harmony,' say the authorities, 'is deeper and more essential than agreement.'

"We may have a superficial, forced, patched-up agreement, but never a superficial, forced, or patched-up harmony.' From all which it appears that none of the terms considered are exact synonyms of harmony. And this agrees with the most subtle of philosophers who said, 'There is an absurdity in saying that harmony is composed of elements which are still in a state of disagreement,' such as may come, for instance, from elements forced into, or patched into, an agreement; or from conformity through submission to authority, or necessity, or from accordance at one or two points only. Harmony, then, is more than concord, deeper than agreement, and of wider range than accord. It is that complete, perfect union at all points that blends the several into one. It is the 'Nevertheless, not as I will, but as thou wilt,' of Jesus, in His address to His Father. In its most perfect expression it is the oneness of the Father, Son, and Holy Spirit. In its somewhat less

perfect aspect it is the onemindedness, the oneheartedness, the like-mindedness of the saints, so frequently spoken of in the Scriptures and prayed for by the apostles. It is that oneness of the disciples of Jesus which is to be as the oneness between the Father and the Son, for which Jesus prayed in Gethsemane. This is harmony in its universal aspect.

"As to harmony, with special reference to the understanding that the Latter-Day Saints should have of it, as affecting the membership of the church, or as subsisting in the quorums of the priesthood, I would say that such harmony as is described in the foregoing remarks is the harmony that is sought to be established among the Saints, and in the membership of the respective quorums; that is to say, a harmony that comes from seeing eye to eye in all things; from understanding things alike; a harmony that is born of perfect knowledge, perfect honesty, perfect unselfishness, perfect love. This is the harmony the church would inculcate among its members, and such the elements from what she would have it arise. But, alas! in this world, where we can but know in part and see in part, or but as through a glass darkly, and where even love is not without alloy, it is doubtful if that perfect harmony for which we hope, and strive, and pray—as did the prophets and saints of God in other days—may be attained.

"It is with harmony as it is with all the ideals of the gospel. The saints and elders of the church may fail in perfect attainment of them in this life, but they may approximate to them. 'In nothing, perhaps,' says a thoughtful writer, 'is it given to man to arrive at the goal of excellence he has proposed to himself; his glory is in advancing toward it.' While that is true respecting all the ideals of the gospel, and as true of the perfect harmony we seek to attain as of other ideal conditions, yet we recognize the fact that a certain degree of harmony is essential in the church as a working principle. This degree of harmony, essential in the church, among the members and in the quorums of the priesthood, is neither hard to understand nor difficult of attainment. Neither is it a new principle, nor peculiar to the Church of the Latter-day Saints. It is as old as the society of men. It is common to all men working in community—to parliaments, congresses, conventions, boards, bureaucracies, and conferences of all descriptions.

"In the Church of Jesus Christ of Latter-Day Saints this essential harmony consists of such union or agreement as is necessary to the accomplishment of the purposes of the organization. These purposes, in the main, are accomplished through the several councils of the priesthood and through the conferences of the church, hence the work is done by the combined actions of groups of individuals, and of necessity must be by their agreement or consent. With men of varying intelligence, judgment, and temperament, of course it follows that in the consideration of a given matter there will be a variety of views entertained, and discussions of the subject will nearly always develop a variety of opinions. All this, by the way, is not detrimental to the quality of any proposed action, since the greater the variety in temperament and training of those in conference the more varied will be the view points from which the subject in question is considered until it is likely to be presented in almost every conceivable light and its strength as well as its weakness developed, resulting in the best possible judg-

ment being formed of it. It is these considerations which doubtless led to the aphorism, 'In the midst of counsel there is wisdom.'

"It will sometimes happen, of course, in the experiences of councils or conferences, that all present may not be brought to perfect agreement with reference to the proposed action; but, upon submission of the question to an expression of judgment, it is found that a majority of those having the right to decide a given matter determine it in a certain way. And now the question arises, What shall be the course of those who are in the minority, those not in agreement, perfectly, with the decision? Shall they go from the council or conference and contend for their views against the decision rendered, and be rebellious and stubborn, in adhering to their own judgment, as against the judgment of the majority of the council or conference who had the right to determine what the action should be? The right answer, I think, is obvious. The judgment of the majority must stand. If it is the action of the council or conference having the final word upon the subject, it becomes the decreed action, the rule or law, and must be maintained as such until greater knowledge or changed circumstances shall cause those who rightfully established such decision to modify or abolish it.

"Of course, if a member or members of the minority regard the action of the majority as a violation of some fundamental principle, or subversive of the inherent rights of men, against which they conceive it to be a matter of conscience to enter protest or absolute repudiation, I understand it is their right to so proceed; but this, let it be understood, would be revolutionary; it would be rebellion; and if persisted in could only end in such persons voluntarily withdrawing or being severed from the organization. They can not hope to be retained in fellowship and enjoy the rights and privileges of the church and at the same time be making war upon its decisions or its rules and policy. But no power on earth, certainly no power in the church, can prevent men dissatisfied with the church from absolutely withdrawing from it; and such is the disfavor with which the church is regarded by the world that such withdrawals would in most cases be rewarded by the applause of the world. Or, if the dissatisfaction of the member be only with the quorum or council of the priesthood with which he is connected, he would be at liberty to withdraw from that quorum or council and still retain his membership in the church. On the other hand, the harmony which I spoke of as being essential to the church certainly demands that the church shall not tolerate, and, indeed, if the life of the organization persists it can not tolerate such internal conflicts as those just alluded to, as they would lead to confusion, anarchy, disruption, and final abolishment of the organization.

"This phase of the subject may be illustrated, in a way, by reference to the union which subsists between the States which form the American nation. No one, I believe, will deny the ultimate right of revolution to the American people considered en masse, or as groups collected within State lines, so long as we hold that our nation's Declaration of Independence that it is a self-evident truth that when any form of government becomes destructive of the ends of government—the preservation of the people's right to life, liberty, and the pursuit of happiness—it is the right of the people to alter or abolish it. So long as we hold this to be a self-evident truth, I repeat, we may not deny the ultimate right of revolution. But it has been held, and with an

emphasis no less decisive than the great civil war, that it is a solecism to suppose that a State may remain in the Union, and yet be bound by no other of its laws than those it may choose to obey, and it is now a settled principle in our country that there can be no secession of a State from the Union without revolution. So with the church and its members, and also with the quorums and councils of the priesthood and their members. If, in the opinion of members of any of these bodies, decisions or policies become violative of fundamental principles, or result in hardships or injustice not to be indured, then the members may resort to what would be equivalent, in a State, to revolution; that is, they can sever their connection with the organization and take such course of opposition as they may think the occasion requires. But surely they may not remain within the organization and persist in taking such a course as disturbs the peace or threatens the very existence of the organization. The right of the organization to perpetuate its existence would justify it in disciplining such recalcitrant members, and, in the event of failing to bring them to repentance, it would have the undoubted right to expel them.

“When men enter the church or become members of the quorums of its priesthood they do so with a full knowledge of the existence and operation of these principles, for, as before remarked, they are but the terms of convention common to all community work. Therefore it would be an unreasonable contention to hold that a member of the church or a member of any quorum of its priesthood organization could persist in opposition to its decisions and policy and still maintain his membership in the organization. Whenever decisions are rendered by the councils of the priesthood or the conferences of the church—after the period of consideration and discussion is passed and final action had—it becomes the duty of the minority to make the decisions of said councils or conferences their decisions and to maintain them honestly, as the rule or policy of the church, by adhering to and advocating them, as if they were in perfect accord with their individual convictions. And this is the essential harmony which, in the commencement of this discourse, I contended was necessary to the church, and, for that matter, to every organization which is to have any assurance of permanent existence or efficiency of administration.

“There is one other element to be considered in this matter of harmony, as a doctrine of the church, which may not operate in other community efforts of men, and that is the living presence and effective force of the Holy Spirit. That Spirit, it must be remembered, is, by way of preeminence, called ‘the Spirit of Truth, which proceedeth from the Father.’ He teaches all things; and brings to the remembrance of the saints all the instructions of the Master. He guides into all truth; and, as in all truth there is unity or harmony, so, it is believed, that if the saints are in possession of this Spirit, the harmony in the Church of Christ will be superior to the harmony that can be looked for, or hoped for, in any other organization whatsoever. And because the saints have free access to the Holy Spirit, and may walk within his light and fellowship, and possess the intelligence which he is able to impart, a stricter harmony among the saints may be insisted upon than in any other organization of men whatsoever. For the same reason lack of harmony may be more severely censured, and persistent opposition and rebellion more justly denounced and swiftly punished.

"In all things, however, patience and charity must be exercised, and no less in seeking the perfect harmony we hope for than in other things. The present state of imperfect knowledge, the struggle it is for all men to live on those spiritual heights where they may be in communion with God, must be taken into account and due allowance made for human weakness and imperfections. So that, while the existence of that degree of harmony essential as a working principle in the church must always be imperatively demanded, beyond that the church in the matter of harmony may well afford to exercise forbearance and charity toward all its members until the day of more perfect knowledge shall arise upon the saints; a day when, through a wider effusion and a deeper penetration of the Holy Spirit, they may be brought to stand in perfect harmony with each other and with God.

"JOSEPH F. SMITH."

Mr. WORTHINGTON. Have you anything to do, Doctor, with the religion classes, as they are called, in their organization?

Mr. TALMAGE. No, sir; and have not had for many years. In the early days of the religion-class movement I was connected with the denominational or church schools, and was an officer of the religion-class organization; but when I entered the service of the University of Utah, which is the State University, I severed my connection entirely with all church schools and all accessory organizations of the kind.

Mr. WORTHINGTON. When was that?

Mr. TALMAGE. That was in the year 1892 or 1893.

Mr. WORTHINGTON. What is the position which you accepted and now hold in the State University?

Mr. TALMAGE. I am the professor of geology in the State University.

Mr. WORTHINGTON. I think you said something about your having something to do with the Sunday schools.

Mr. TALMAGE. Yes, sir; I am at present a member of the general board; that is the presiding authority of the Sunday-school organizations.

Mr. WORTHINGTON. How long have you been such?

Mr. TALMAGE. During the last three years, about.

Mr. WORTHINGTON. As to these religion classes, during the time you were connected with them, and since, so far as your knowledge goes, what can you tell us about the use of the school buildings by those classes, as to whether it has been done generally, or encouraged, or whatever you can tell us about it.

Mr. TALMAGE. I can not give you statistical information. This, however, I know. The use of schoolhouses, that is, of the public schoolhouses, for religion class work, is an incident of the religion class movement. It appeared as an incident of importance years after the religion classes had been operating. In other words, the religion class movement was entirely independent of the consideration of the buildings in which the classes should be held. In the early days of the movement to which I have referred I was officiating as a stake superintendent of religion classes, and carried into effect the instructions I had received, recommending that wherever possible religion classes should be held in the ward houses, that is, the ecclesiastical buildings, buildings used by and belonging to the church; but, where it was not practicable so to do, and particularly during the winter time, when it

would be difficult and expensive to heat up a building for a short session only, that application should be made to the local school authorities to see if they would rent the building for this purpose.

In that connection, in a circular of instruction sent out in 1901, which circular embodies a letter signed by the first presidency of the church, Wilford Woodruff, George Q. Cannon, and Joseph F. Smith, under date of October 29, 1890, regarding religion class work, I note this, and am familiar with it, as I had followed the instructions here laid down in my official capacity:

"Where arrangements can be made, it will, as a general thing, be well to secure the district schoolroom for this purpose, so that when they take place in the afternoon these exercises can commence immediately after the regular sessions and before the children scatter; but where this is done care must be taken to keep the two entirely separate, so that the law may not be infringed upon."

I read further, in the next paragraph:

"Where it is found necessary to pay the teacher a small stipend for his services, the general board of education should be consulted through the stake board, but it is thought that the incidental expenses for fuel, etc., may, without inconvenience, be met by the ward, or by the people whose children are benefited."

MR. WORTHINGTON. Doctor, you have told us you are not a polygamist and never have been. What can you tell us, from your acquaintance with the people of your faith out there, as to the feeling on that subject of the younger members of the church, especially?

MR. TALMAGE. The present state of feeling?

MR. WORTHINGTON. Yes.

MR. TALMAGE. I think the great majority of the members of the church, and a very great majority of the younger members of the church, would manifest open opposition toward any encouragement of the practice of polygamy. Some of them, many of them, indeed, may believe in the polygamous relation as an abstract condition or status, but to the continuation of plural marriages there is a very strong and overwhelming sentiment in the Mormon Church in opposition to it.

MR. WORTHINGTON. You may cross-examine, Mr. Tayler.

MR. TAYLER. Doctor, what are the inspired authorities of the church?

MR. TALMAGE. You mean the written authorities?

MR. TAYLER. No; I do not.

MR. TALMAGE. Then you mean, who are the inspired authorities?

MR. TAYLER. No; I mean what are the inspired authorities of the church? Is there anything besides the Bible, the Book of Mormon, the Doctrine and Covenants, the Pearl of Great Price, and the Manifesto of 1890?

MR. TALMAGE. Those are the only standard works of the church which are adopted and made binding upon the church. As to inspiration, I think there are many books used by members of the church that are inspired, published by members of the church, and published by many who are not members of the church. Any book that sets forth truths, I take it, is in a manner an inspired work. I do not wish to evade the question. Those are the only works that are accepted by the church, or that can be authoritatively referred to and quoted as representing or presenting the law of the church.

MR. TAYLER. How do the revelations contained in the Doctrine and

Covenants differ in the divinity of their origin or their authoritative character from other revelations, if there are or were any, not contained within the covers of that book?

Mr. TALMAGE. Other revelations received by or given to the church?

Mr. TAYLER. Yes.

Mr. TALMAGE. There are none. I do not mean to be understood as saying that other revelations, specific and definite, may not have been received; but if so, it is not known. They are not promulgated. They are not given out to the people. They are not binding on the people. The people never heard of them, and have never had a chance to accept or reject them; and I know of none that are thus held in abeyance.

Mr. TAYLER. So that until they are accepted or rejected, what do they amount to?

Mr. TALMAGE. They amount to nothing; and as far as my knowledge goes, they are not.

Mr. TAYLER. When was the polygamy revelation accepted by the people?

Mr. TALMAGE. Do you refer to the revelation now embodied in the Doctrine and Covenants?

Mr. TAYLER. Yes.

Mr. TALMAGE. When the Doctrine and Covenants was accepted as a work. I do not know whether that revelation was ever voted upon separately or not.

Mr. TAYLER. Was there ever a doctrine of the church more ardently believed in by those who believed in it at all than the revelation pertaining to celestial marriage?

Mr. TALMAGE. I do not know. The celestial marriage part of that revelation, I take it, is practically universally believed.

Mr. TAYLER. That is to say, the plural marriage part of it?

Mr. TALMAGE. That has been believed in, according to my observation and judgment, by a very small part of the membership of the Mormon Church at any time, and has been practiced by a very much smaller portion.

Mr. TAYLER. Exactly. So that you deny the proposition that the revelation as to plural marriage, whatever might have been a man's view as to his own personal practice of it, was right? You deny that?

Mr. TALMAGE. Will the reporter read the question? I did not catch the first part of it.

The reporter read as follows:

"Mr. TAYLER. Exactly. So that you deny the proposition that the revelation as to plural marriage, whatever might have been a man's view as to his own personal practice of it, was right? You deny that?"

Mr. TALMAGE. I deny that the question was explicit.

Mr. TAYLER. You deny that the question is explicit?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. I did not ask you to deny that. You might have asserted it.

Mr. TALMAGE. I will assert it, if that will suit better, but I can not answer it in that form.

Mr. TAYLER. Then you do not agree with Joseph F. Smith when he says that you might just as well deny any other principle of the church as to deny that?

Mr. TALMAGE. Counsel appears to be proceeding upon the supposition that I have denied. I have denied nothing in regard to that revelation.

Mr. TAYLER. What was it you said about it? Tell us.

Mr. TALMAGE. In what connection, sir?

Mr. TAYLER. I have not covered the field so largely that you can not recall, Doctor. What was it you said about the acceptance of this revelation?

Mr. TALMAGE. Counsel says he has not covered the field to such an extent that I can not remember. I am not desiring to evade your question, but I want to know whether you are referring to what I have said in answer to your questions or in answer to counsel in direct examination.

Mr. TAYLER. Mine.

Mr. TALMAGE. I will ask the reporter to read, then, as that is very far back. I do not remember what I did say, as I do not remember exactly what the question was.

Mr. TAYLER. It would be hard for the reporter to run back and search for answers.

Mr. TALMAGE. Will counsel please repeat his question, then, or put another one to cover the same ground, and then I will endeavor to answer.

Mr. TAYLER. I asked you whether the revelation respecting plural marriage had ever been submitted to a conference of the Mormon people?

Mr. TALMAGE. Yes, it has been submitted as part of the volume known as the Doctrine and Covenants, but I repeat, as to whether it was ever voted upon separately or not, I do not know. It has always been a part of the standard work known as the Doctrine and Covenants since I began to read such.

Mr. TAYLER. Yes, but I have understood you to say—and I fear I have done you an injustice—that no revelation amounted to anything unless it was accepted by the people.

Mr. TALMAGE. I would be sorry to make the statement in that way. A revelation certainly amounts to something. If it is a revelation it is a revelation, and amounts to just so much; but as to being a binding law upon the church—a law of practice and action—it would have to be first adopted by the church to become such.

Mr. TAYLER. Now, when was this revelation respecting plural marriage adopted?

Mr. TALMAGE. I say again, as to whether it was ever adopted separately or not I do not know. The Doctrine and Covenants, the compilation, order, and arrangement of which has not been changed for many years, has been adopted.

Mr. TAYLER. All right. Let us dismiss this blanket business.

Mr. TALMAGE. Dismiss what, sir?

Mr. WORTHINGTON. What do you mean by that, Mr. Tayler? The witness says the whole book was adopted.

Mr. TAYLER. Exactly. That is what I am coming at.

Mr. WORTHINGTON. Very well.

Mr. TAYLER. Do you mean to say that that revelation respecting plural marriage never was presented to the Mormon people except in some edition of the Doctrine and Covenants?

Mr. TALMAGE. I repeat my words, hoping that counsel will this time understand me. I do not know.

Mr. TAYLER. You do not know?

Mr. TALMAGE. I have so stated several times.

Mr. TAYLER. Very well. Then do you want us to understand that no other treatment was given to that revelation than that which is described in your last answer?

Mr. TALMAGE. My last answer was that I do not know, and I do not see how that could be construed as a description of the kind of treatment given to that revelation.

Mr. TAYLER. Then the plural marriage revelation, as such, and separated from other revelations, was never laid before the Mormon Church for its adoption?

Mr. TALMAGE. For counsel's benefit, I repeat my former answer. I do not know. I have never found any record of such.

Mr. TAYLER. And that is the only answer you can make to that?

Mr. TALMAGE. It is.

Mr. TAYLER. When the revelation suspending it was received, that was submitted to the people?

Mr. TALMAGE. The document known as the manifesto was submitted to the people, yes, sir.

Mr. TAYLER. Not the revelation?

Mr. TALMAGE. According to my interpretation, not the revelation.

Mr. TAYLER. So far as the records of the church go, therefore, a revelation suspending the plural marriage revelation was adopted, although there was no record of the adoption of the original revelation?

Mr. TALMAGE, I would not like to think that counsel is intentionally twisting the words of a witness. I have endeavored to state that that revelation to which counsel is referring most assuredly has been adopted by the people. The whole book has been adopted.

Mr. TAYLER. When?

Mr. TALMAGE. The Doctrine and Covenants, as one of the standard works, was adopted at the time of its first compilation, the date of which I am not able to give you just now; but after it had been rearranged as to chapters and verses it was adopted again during the semiannual conference of the church, on October 10, 1880. On that date the Doctrine and Covenants, having then undergone some rearrangement in the matter of versification, was adopted by the people.

Mr. TAYLER. When did section 132, which is the plural marriage revelation, first become incorporated in the Book of Doctrine and Covenants?

Mr. TALMAGE. I do not know. It has been a part of every edition of the Doctrine and Covenants I have ever been able to see or get possession of.

Mr. TAYLER. When was the first edition of the Doctrine and Covenants?

Mr. TALMAGE. I do not know.

Mr. TAYLER. You have known so much, Doctor, about the history of your church that I hoped you might refresh your recollection on that.

Mr. TALMAGE. I would be very pleased to give the information—very pleased to have it; but I do not know offhand when the Doctrine and Covenants was first adopted.

Mr. TAYLER. I did not say adopted. When was it first published?

Mr. TALMAGE. That I do not know.

Mr. TAYLER. When was the plural marriage revelation received?

Mr. TALMAGE. According to the superscription of the revelation as it appears in section 132—

Mr. TAYLER. I can read the superscription, Doctor, myself. When was it, as a matter of fact, in the church history received?

Mr. TALMAGE. I will continue my answer. According to this superscription it was given July 12, 1843. As to any other date I have absolutely no knowledge.

Mr. TAYLER. What is the name of your work?

Mr. TALMAGE. Of what, sir?

Mr. TAYLER. Of your work—your theological work?

Mr. TALMAGE. There is a book here, for which I am responsible, called the Articles of Faith.

Mr. TAYLER. Now, as the author of that work and as a student generally of the tenets of the Mormon Church, have you obtained no information respecting the giving of the revelation respecting plural marriage except that which is contained in the heading of section 132?

Mr. TALMAGE. None whatever. The work to which counsel is kind enough to refer does not treat the subject of plural marriage.

Mr. TAYLER. What is it?

Mr. TALMAGE. The work to which counsel has referred does not treat the subject of plural marriage except in a purely incidental way, as illustrative of continuous revelation, and the necessity of bringing in the details as to the date of this particular revelation, etc., did not appear. I will simply say that I have never questioned the correctness of the date given in the Doctrine and Covenants, and never have felt it incumbent upon me or necessary from my point of view to investigate that.

Mr. TAYLER. Have you never heard that the revelation, or part of it, at least, came earlier?

Mr. TALMAGE. No, sir; not definitely or authoritatively.

Mr. TAYLER. Were you here yesterday when I read from a letter written by President Joseph F. Smith, contained in the Desert News?

Mr. TALMAGE. No, sir.

Mr. TAYLER. I have it here:

“Joseph F. Smith, the president of the church, in an article entitled ‘Celestial marriage, how and when the revelation was given,’ says:

“‘It must be borne in mind that this great and glorious principle was first revealed to Joseph Smith in 1831—or 1832 (I have not the exact date with me), but, being forbidden to make it public or to teach it as a doctrine of the gospel at that time, he confided the facts to only a very few of his most intimate associates.’”

Is that the first time you ever heard of that?

Mr. TALMAGE. No, I think I have heard of that. The superscription which I undertook to read, and in the reading of which I was interrupted, states that the revelation was given through Joseph, the seer, July 12, 1843, and I have never investigated the correctness or incorrectness of that.

Mr. TAYLER. Have you ever, in your investigations, run across the statement, the claim made by the leaders of your church, that polygamy was actually practiced prior to 1843, prior to the date of this revelation?

Mr. TALMAGE. Yes. I would like to ask counsel, Are you asking me as to whether I know of a publication of this revelation or a promulgation of this revelation prior to this date?

Mr. TAYLER. Not at all.

Mr. TALMAGE. Or the reception of the revelation?

Mr. TAYLER. The reception of it.

Mr. TALMAGE. As regards the date of reception, I know nothing aside from what is here given.

Mr. TAYLER. Of course, nobody knows anything to-day, Doctor, about that, I suppose, but I am only asking you for the class of knowledge which you have been giving us here all day.

Mr. TALMAGE. I have not been giving knowledge, to use counsel's term, on subjects I know nothing about; or at least I have tried not to do so. Concerning this matter, I am not able to correct or criticise the date that is given in this compiled work.

Mr. TAYLER. How do you know that polygamy was practiced prior to the date of that revelation?

Mr. TALMAGE. I have not said that I knew anything of that.

Mr. TAYLER. What is the state of your mind on that subject?

Mr. TALMAGE. I have no definite views at all. I understood counsel to ask me if I had heard that it had been. I answer yes; I have heard that, but I do not know of any way of proving it or disproving it. I find nothing of record in regard to it.

Mr. TAYLER. Is it not a matter recognized by the Mormons as having occurred prior to 1843?

Mr. TALMAGE. I do not know that there is any general recognition or repudiation of any claim of that kind.

Mr. TAYLER. Is it not, in your church history, recognized as a fact that Joseph Smith had received a revelation respecting plural marriage prior to that time, and that in consequence, indeed in obedience to that revelation, he had taken a plural wife, or, more, that he had conveyed that revelation to others?

Mr. TALMAGE. I could not refer you to and could not produce any reference in church history that would definitely meet your question.

Mr. TAYLER. Then you are unable to say whether it is recognized among the church people that, as a historical fact, not proven by you as an eyewitness, or others, that polygamy was to some extent practiced among the Mormons prior to the date of the revelation given in the Book of Doctrine and Covenants?

Mr. TALMAGE. I can answer that, yes. I do not know what the general state of the mind of the members of the church is on that matter, and I have in mind no historical record or reference that I would consider sufficiently definite to warrant me in saying yes or no to a question of that kind.

Mr. TAYLER. Do you know that polygamy was ever practiced at all in the church?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Do you know how soon they commenced to practice it?

Mr. TALMAGE. After the organization of the church, do you mean?

Mr. TAYLER. I do not suppose they practiced it before the organization, Doctor; but how early?

Mr. TALMAGE. Since counsel takes exception to that question, I will ask him to be explicit. Do you mean in my experience or from my reading of what took place in the early days of the church?

Mr. TAYLER. Yes.

Mr. TALMAGE. Which?

Mr. TAYLER. The latter.

Mr. TALMAGE. Then I do not know.

Mr. TAYLER. Have you any idea?

Mr. TALMAGE. No other than to say it was toward the end of the lifetime of Joseph Smith, I assume.

Mr. TAYLER. Then you are ready to say that it was practiced prior to the death of Joseph Smith?

Mr. TALMAGE. According to my understanding, it was. I have met women who have told me that they were the wives of Joseph Smith.

Mr. TAYLER. You have met women who have told you that?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Did you learn how long before his death they had married him?

Mr. TALMAGE. No, sir.

Mr. TAYLER. How many such women have you seen, Doctor?

Mr. TALMAGE. I think I can definitely say I have met two.

Mr. TAYLER. That is, who were plural wives?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Have you ever seen the published statement of Joseph and Hyrum Smith denying the practice of polygamy in the church?

Mr. TALMAGE. I do not know to which statement you refer. I do not recognize any by that description.

Mr. TAYLER. Do you know whether he made more than one?

Mr. TALMAGE. I do not know that he made one. A gentleman in this room called my attention yesterday, in a hurried manner—that is, I was in a state of hurry—to some publication in which there was a short article with the names of Joseph and Hyrum Smith appended. I did not read it with sufficient care to be able to express any opinion upon it, and I answer your question in this guarded way because you asked me if I had ever seen such an article.

Mr. TAYLER. I will read what I had in mind:

“NOTICE.

“As we have been lately credibly informed that an elder of the Church of Jesus Christ of Latter-day Saints by the name of Hiram Brown has been preaching polygamy and other false and corrupt doctrines in the county of Lapeer, State of Michigan, this is to notify him and the church in general that he has been cut off from the church for his iniquity; and he is further notified to appear at the special conference on the 6th of April next to make answer to these charges.”

That is found in Times and Seasons, Volume V, page 423. Had you heard of that?

Mr. TALMAGE. No.

Mr. TAYLER. Has not that letter been the subject of frequent discussion?

Mr. TALMAGE. I do not remember ever having seen that in print before yesterday. I recognize it now as the one to which my attention was called, and I am not prepared to deny its authenticity or to question or affirm that it is not authentic.

Mr. TAYLER. It is referred to in this communication of Joseph F. Smith as a “seeming” denial.

Mr. TALMAGE. When was that communication of Joseph F. Smith’s published, if you please, and where? You kindly read the communication but you did not give me the date, if I remember correctly. I was listening for it.

Mr. TAYLER. It was published on the 20th of May, 1886, in the Deseret News. Do you understand that that is a denial of the revelation respecting plural marriage, which, in fact, Joseph Smith did receive?

Mr. TALMAGE. No, sir.

Mr. TAYLER. What do you interpret it to mean?

Mr. TALMAGE. I would interpret that to mean that some man had been teaching, as a doctrine of the church, what had not been adopted by the church as one of its doctrines, and he was therefore worthy of excommunication for such an act—for teaching a doctrine he was not authorized to teach and preach.

Mr. TAYLER. It was therefore a false doctrine and a corrupt doctrine, was it?

Mr. TALMAGE. I do not know how he preached it at all.

Mr. TAYLER. I am only quoting from the notice.

Mr. TALMAGE. From that I could not be definite. If he was preaching as a doctrine of the church what had not been adopted by the church as a doctrine it was false in its claim to be a doctrine of the church. If he was teaching anything, whether correctly or incorrectly named by title, corrupt, it was a corrupt doctrine.

Mr. TAYLER. That is to say, if Joseph Smith had received this revelation in the terms in which it is now contained in the Book of Doctrine and Covenants, if that revelation came to another Mormon through the channels that Joseph Smith had made, would not that be a revelation to him?

Mr. TALMAGE. I am not quite able to follow you. You say if that revelation had come to another member of the church?

Mr. TAYLER. Yes.

Mr. TALMAGE. Through what kind of channels?

Mr. TAYLER. We will assume—it is easier for us to ask another question than to discuss the old one. If Joseph Smith conveyed this revelation to one of his associates, and one of his associates conveyed it to Hiram Brown—named in this notice—then would you say that Hiram Brown had no authority to preach it or teach it or live it?

Mr. TALMAGE. Most assuredly.

Mr. TAYLER. What?

Mr. TALMAGE. I would answer yes; he had no authority to preach that unless he was so commissioned to do.

Mr. TAYLER. And doing so would be to preach false and corrupt doctrines?

Mr. TALMAGE. In the sense in which I have answered that question before; yes.

Mr. TAYLER. Now, this appears over the signature of Hyrum Smith:

NAUVOO, March 15, 1844.

To the Brethren of the Church of Jesus Christ of Latter-Day Saints living on China Creek, in Hancock County, greeting:

Whereas Brother Richard Hewitt has called on me to-day to know my views concerning some doctrines that are preached in your place, and stated to me that some of your elders say that a man having a certain priesthood may have as many wives as he pleases, and that that doctrine is taught here. I say unto you that that man teaches false doctrine, for there is no such doctrine taught here; neither is there any such thing practiced here. And any man that is found teaching

privately or publicly any such doctrine is culpable and will stand a chance to be brought before the high council and lose his license and membership also; therefore he had better be aware of what he is about.

HYRUM SMITH.

Do you understand that to be a denial of the doctrine of polygamy?

Mr. TALMAGE. Not if I understand English.

Mr. TAYLER. Not if you understand English?

Mr. TALMAGE. Yes.

Mr. TAYLER. But it is a denial that a man having a certain priesthood may have as many wives as he pleases. That is what it denies, is it?

Mr. TALMAGE. Plainly so.

Mr. TAYLER. And it was not intended to convey the impression that polygamy was not permitted at all, was it?

Mr. TALMAGE. I have not so stated and can not so state, from counsel's reading. I should want to consider the context and the conditions and circumstances under which that was given, but, interpreting it from the single reading, I should say no, it was not so intended, as I gather from the reading.

Mr. TAYLER. I will read it over, because I do not want to—

Mr. TALMAGE. Would counsel permit me to read it, if you please?

Mr. TAYLER. Surely; and I ask you the question whether, upon reading it—and I will be obliged if you will read it aloud before you answer the question—whether that was intended to leave the impression that polygamy was not practiced?

Mr. TALMAGE (after examining the letter). Did I understand counsel to request me to read this?

Mr. TAYLER. Yes, and answer it.

Mr. WORTHINGTON. Yes; I would like to have you read aloud the part you are going to refer to, so that we will all know what is the subject of discussion.

Mr. TALMAGE (reading):

NAUVOO, March 15, 1844.

To the Brethren of the Church of Jesus Christ of Latter-Day Saints living on China Creek, in Hancock County, greeting:

Whereas Brother Richard Hewitt has called on me to-day to know my views concerning some doctrines that are preached in your place, and stated to me that some of your elders say that a man having a certain priesthood [the words "having a certain priesthood" are in italics] may have as many wives as he pleases, and that doctrine is taught here, I say unto you that that man teaches false doctrine [the words "false doctrine" are in italics], for there is no such doctrine taught here; neither is there any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine is culpable and will stand a chance to be brought before the high council and lose his license and membership also; therefore he had better beware of what he is about.

HYRUM SMITH.

A line beneath reads:

"Times and Seasons, Volume V, page 474."

I would answer counsel's question by saying that I see there no denial that polygamy had been practiced before that time. I see noth-

ing that would justify the inference that it had been, but I see a positive denial of what is there designated as false doctrine, in the matter of the alleged preaching of this man, to the effect that a man having a certain grade of priesthood was at liberty to wed as many wives as he liked, and that that was not practiced at the place from which the letter was sent.

Mr. TAYLER. So that if you had been called upon, under the circumstances that existed at that time, to meet the charge that a man holding a certain priesthood could have as many wives as he wanted, you would have felt that this answer, if you had given it so, would have been candid and not intended to be misleading?

Mr. TALMAGE. Yes, sir. The charge, as I understand it there, is not that men in the church were practicing polygamy—

Mr. TAYLER. No.

Mr. TALMAGE. But that men having a certain grade of priesthood were claiming certain rights, as privileges attached to that grade of priesthood which they held, and among them to take as many wives as they liked; and by implication and inference those who had not reached that grade of priesthood were to be limited in the number of their wives, and I think that would be a very bad condition.

Mr. TAYLER. I see. So that the important thing, and the outrageous thing, in that, was not that a man might not have as many wives as he wanted, but that one grade of priesthood could have more than another grade?

Mr. TALMAGE. The latter point appears to be the one that is there denounced, and the other is not touched upon; and I take it that question is not before me unless counsel presents it in a specific way.

Mr. TAYLER. The president of the church—

The CHAIRMAN. Mr. Tayler, before you go to another subject, I would like to ask this question for my information: I understood you to say that you knew that President Smith had two plural wives?

Mr. TALMAGE. Joseph Smith?

The CHAIRMAN. Yes.

Mr. TALMAGE. I made the statement that according to my remembrance I have met at least two women who have said that they were plural wives of Joseph Smith; yes, sir.

The CHAIRMAN. Are those women now living?

Mr. TALMAGE. One of them died recently. The other, I think, is still living. Yes, she is still living.

The CHAIRMAN. Do you know where?

Mr. TALMAGE. Yes; in Salt Lake City.

The CHAIRMAN. What is her name?

Mr. TALMAGE. Bathsheba Smith.

The CHAIRMAN. Go on, Mr. Tayler.

Mr. TAYLER. You told us something about the government of the church, and stated that the first presidency was supreme in the church. Is that right?

Mr. TALMAGE. I am not aware that I have used that expression at all.

Mr. TAYLER. What is the head of the church?

Mr. TALMAGE. The head of the church is the president of the church.

Mr. TAYLER. The president of the church, not the first presidency. It is the president of the church, is it? He is supreme in the church?

Mr. TALMAGE. I have not used the word "supreme." If counsel wishes to use it then it may be used. But counsel asks me if I did not so state.

Mr. TAYLER. Well, is he supreme in the church?

Mr. TALMAGE. I can not answer that question by yes or no. The church is supreme. The church is superior to any of its officers. In the sense of possessing supreme power——

Mr. TAYLER. Do not let us have a sermon.

Mr. TALMAGE. I desire to answer the question, not to preach a sermon, but I would wish to make my meaning clear.

Mr. TAYLER. All right.

Mr. TALMAGE. In the sense of possessing supreme power, that can be exercised individually and arbitrarily, there is no officer in the church who can be described as possessing such. The first presidency constitutes the highest administrative quorum in the church.

Mr. TAYLER. Then is it not supreme?

Mr. TALMAGE. In that sense, if counsel now wishes to apply the term, I have no objection; but the term is his, not mine.

Mr. TAYLER. We will get along faster, I think, if you would not imagine there is some pit being dug for you, Doctor.

Mr. VAN COTT. You are right, Doctor, in being careful.

Mr. WORTHINGTON. He is very right in suspecting there was a pit dug for him, and he went around it.

The CHAIRMAN. Go on with the witness.

Mr. TAYLER. It would not do for me to make any observations about it.

What is the next authority inferior—if you will excuse the use of words of that character—inferior to the highest authority?

Mr. TALMAGE. No excuse is needed for the use of the word. The next quorum in authority is, as stated, the quorum of the twelve apostles.

Mr. TAYLER. And the next?

Mr. TALMAGE. The next quorum in the order of administrative bodies is the first council of seventy.

Mr. TAYLER. The president of the church becomes president how?

Mr. TALMAGE. By being duly nominated and then being voted upon affirmatively by the assembled quorums of the church and by the church as a whole, and then——

Mr. TAYLER. Who nominates him?

Mr. TALMAGE. Kindly let me finish one answer first. And then by ordination. Now, counsel's second question.

Mr. TAYLER. Who nominates him?

Mr. TALMAGE. The nominating power lies with the quorum of the twelve apostles.

Mr. TAYLER. No other authority can present his name?

Mr. TALMAGE. The quorum of the twelve apostles, after the disorganization of the first presidency, is the presidency of the church, and none other could present the name.

The CHAIRMAN. Witness, will you let me ask you a question right there for information?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Is this choice of the first presidency by the twelve apostles taken from the apostles?

Mr. TALMAGE. Do you mean, Mr. Chairman, is the choice necessarily confined to—

Mr. CHAIRMAN. I want to know what the practice is.

Mr. TALMAGE. The practice up to date has been uniform, and that is that the presiding or senior member of the quorum of the twelve apostles has succeeded to the presidency, but there is no rule or law requiring such.

The CHAIRMAN. That has always been the practice, however?

Mr. TALMAGE. It has been the practice, sir; and if the Senator would kindly allow me to explain, if I understood him correctly, he said in his question the choice of the first presidency?

The CHAIRMAN. The first president. I did not care for the plural. If I said the plural, that was a mistake, because we all understand the first president is a single individual and the first presidency is a single individual with two counselors.

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. That is thoroughly understood. Go on, Mr. Tayler.

Mr. TAYLER. Who selects the counselors to the president?

Mr. TALMAGE. The president, himself, nominates, in the first place, his counselors.

Mr. TAYLER. Who selects the seventies—the first presidents of seventies?

Mr. TALMAGE. There is no binding rule, law, or even custom in that matter, as I understand it myself. The presiding quorum of the church, the first presidency, if it be in order—that is, if it be an organized body—the quorum of the twelve apostles, if that quorum be the presiding quorum of the church at the time through the disorganization of the first presidency, may make the nomination, or the matter may be referred to the council of the seventies themselves.

Mr. TAYLER. Well, except in the instance of coming from the seventies themselves, all of this power and office originates in the apostles or is initiated by the apostles—the movement toward it?

Mr. TALMAGE. In the sense of the apostles having the power to nominate a new president on the death of the president, the power may be said to originate or be initiated; but I would not like to choose those terms myself to describe the condition.

Mr. TAYLER. Then give us the proper term.

Mr. TALMAGE. There is no one term that would describe the condition. I can repeat what I have said, if you desire, that on the disorganization of the first presidency the power to nominate a new president of the church lies with the apostles.

Mr. TAYLER. And the new president comes from the apostles?

Mr. TALMAGE. Not necessarily, but, as stated, by custom that has been the case.

Mr. TAYLER. Joseph F. Smith was not one of the twelve when he was elected president, was he?

Mr. TALMAGE. Only in the sense of having been, during previous years, ordained as a member of the twelve.

Mr. TAYLER. But he was rather set apart by the nomination of the president to be one of his counsellors?

Mr. TALMAGE. While he was a counsellor to the president, he was not a member of the quorum of the twelve in any sense.

Mr. TAYLER. But according to the custom of the church his succes-

sion to the presidency was just as natural as though he had remained one of the quorum of twelve?

Mr. TALMAGE. He had not remained one of the quorum of the twelve, for, as stated, while he was counsellor to President Taylor, and afterward to President Woodruff, and still later to President Snow, he was not one of the twelve apostles, not a member of that quorum; but on the death of each one of those presidents he stepped back into his position as a member of the quorum of the twelve.

Mr. TAYLER. The vacancy into which he stepped, having been created by the elevation of one of the twelve to the presidency?

Mr. TALMAGE. I do not understand the question. What vacancy was there?

Mr. TAYLER. I do not know.

Mr. TALMAGE. Nor I.

Mr. TAYLER. How did Joseph F. Smith get into the twelve apostles after he was a first counselor?

Mr. TALMAGE. As I say, the custom has been that after a man has been ordained to the office of an apostle, and has been made one of the quorum of the twelve, and then has been removed from that by being elevated to the presidency, on the death of the president he is still considered to be one of the apostles. Of course, if there were twelve members in that quorum before the death of the president, and his two counselors had been previously ordained apostles, there would be fourteen apostles at that time.

Mr. TAYLER. Then, as a matter of fact, have there ever been, actively, in what you call the quorum of twelve, thirteen men?

Mr. TALMAGE. Of course, thirteen men would not be supposed to compose the quorum of twelve, but there have been, and are to-day, I suppose, more than thirteen apostles.

Mr. TAYLER. But can there be more than fifteen apostles?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. There can be?

Mr. TALMAGE. There are to-day more.

Mr. TAYLER. Who are they?

Mr. TALMAGE. I do not know. There are men who have been ordained to the apostleship and are not members of the quorum of the twelve.

Mr. TAYLER. I am not talking about men who are deposed. Is Moses Thatcher an apostle?

Mr. TALMAGE. No, sir. I do not mean that either. There have been men who have been ordained to the apostleship and who have never been members of the quorum of the twelve.

Mr. TAYLER. There are?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Who?

Mr. TALMAGE. I do not know the names of living men, to be definite and sure.

Mr. TAYLER. This is an interesting subject that we had not known about. Who has been?

Mr. TALMAGE. The man's given name I forget. May I be permitted to ask a question openly, just to get an initial or a name?

Mr. TAYLER. It is only a matter of getting it later. You may get it and give it to us to-morrow.

Mr. TALMAGE. There is a man named Young, but his first name I can not tell you.

Mr. TAYLER. Do you mean to say that now there are fifteen apostles?

Mr. TALMAGE. I say there may be. There are more apostles than twelve.

Mr. TAYLER. That is, there are apostles other than those in the twelve and in the first presidency?

Mr. TALMAGE. That is very true, but they have absolutely no official recognition; just as there are or may be many high priests who are not members of any governing body requiring that priesthood.

Mr. TAYLER. So that the matter of power, in so far as such a man may have power, depends not upon his being an apostle, but upon his being one of the quorum of twelve apostles? Is that right?

Mr. TALMAGE. That is true.

Mr. TAYLER. Now, if we understand the —

Mr. TALMAGE. If counsel will permit me, since that question has come up and since this work, the Articles of Faith, is in evidence, you will find reference to that fact on page 214. One sentence reads:

“There may be, and at present are, apostles in the church who are not members of this quorum of twelve; but such could claim no place in the sittings of the quorum.”

Mr. TAYLER. Then, in so far as the authority of a member of the twelve is concerned, these apostles do not possess it and have no right to claim it?

Mr. TALMAGE. That is true.

Mr. TAYLER. You told us, Doctor, about the organization of the courts. What is the general purpose of these courts?

Mr. TALMAGE. The general purpose is to settle difficulties that may arise between members of the church and prevent the increase of ill feeling such as difficulties that may arise would encourage; to avoid as far as possible litigation on matters of civil dispute; and in general to maintain order and proper discipline among the members of the church.

Mr. TAYLER. And it is done upon the theory that it is a part of the spiritual concern of the church?

Mr. TALMAGE. That it is part of the spiritual concern, to look after the people in their relations one to another?

Mr. TAYLER. Yes.

Mr. TALMAGE. That is true.

Mr. TAYLER. Whether it is a matter of debt or title to a piece of land?

Mr. TALMAGE. No; in regard to offenses that may be in violation of the secular law, the church courts would have nothing to do except to see, if possible, that such alleged violations of the secular law did not lead to disruption in the church. To make my meaning clear, the church courts would have nothing to do with the title to land as such; but if any member of the church had been charged with having fraudulently altered title to land or secured title through fraudulent means, he could be tried for the fraud, for the unchristianlike conduct, before the church courts; but the church courts would not undertake in any way to assume the duties or authorities or jurisdiction of the secular courts.

Mr. TAYLER. In the Birdsall case the church court did order the deed to be made.

Mr. TALMAGE. That is, in the Leavitt case?

Mr. TAYLER. Yes; the Leavitt case.

Mr. TALMAGE. I did not know the precise title of the case, but I suppose the two to be the same.

Mr. TAYLER. Yes; Leavitt against Birdsall.

Mr. TALMAGE. According to the evidence in the record; yes, sir.

Mr. TAYLER. And the judgment of the bishops' court was affirmed in terms by the high council?

Mr. TALMAGE. So states the record.

Mr. TAYLER. And the judgment of the high council was affirmed by the first president?

Mr. TALMAGE. I so understand.

Mr. TAYLER. You say that the use of the expression by President Seegmiller, describing the president of the church as the mouthpiece of God, was unwarranted.

Mr. TALMAGE. I stated that in the connection it was used, as I understood that connection, it was unusual. Whether I said unwarranted, or not, I do not know; but I will say so now.

Mr. TAYLER. In this letter he says:

"Her only relief will be in complying with President Smith's wishes. You say she has never broken a rule of the church. You forget that in this case she has done so by failing to abide by the decision of the mouthpiece of God."

Mr. TALMAGE (after a pause). What about it, sir?

Mr. TAYLER. Do you mean that that expression is improper because you do not look upon the president of the church as technically the mouthpiece of God, or because you do not think he was acting in reference to the spiritual concerns of the church when he made the order?

The CHAIRMAN. Whose language is that, Mr. Tayler?

Mr. TAYLER. This is the language of the president of the stake.

Mr. WORTHINGTON. Seegmiller.

Mr. TALMAGE. I think, as I stated this morning, the term "mouthpiece of God," if applied to the president of the church, should be applied to him when he is the medium of transmission of definite revelation to the people.

Mr. TAYLER. Definite revelation?

Mr. TALMAGE. I do not believe I am justified in referring to him or thinking of him as the mouthpiece of God when he is acting in his individual capacity, and I would not apply the term myself. If Mr. Seegmiller desires to do so, I can only express my opinion that the term is unwisely used, out of place, and that the use, to use the term employed by counsel, is unwarranted.

Mr. TAYLER. Would you say that the method to be pursued in these cases was the order of the Lord?

Mr. TALMAGE. Do you mean the general procedure characterizing church courts?

Mr. TAYLER. Church courts; yes.

Mr. TALMAGE. I believe church courts to be established in accordance with the law of the church, founded upon revelations, and that—

Mr. TAYLER. And that it is the order of the Lord?

Mr. TALMAGE. Pardon me; and that the operation of those church courts, I am not prepared to say, is always in accordance with the

order of the Lord, because I think the men composing those courts may make mistakes.

Mr. TAYLER. You recall, doubtless, this letter from the first presidency—Joseph F. Smith, John R. Winder, and Anthon H. Lund—written November 12, 1901, to Miss Birdsall?

Mr. TALMAGE. I never heard of it until I read it yesterday in the testimony here.

Mr. TAYLER (reading):

“This is in answer to yours of the 10th instant, in which you express a desire to appeal your case direct to us from the bishop’s court or go to law.

“In answer we would say that in all such matters all members of the church are expected to follow the order of the church governing them, and that order provides that an appeal may be taken from the bishop’s court to the high council, and from the high council to the first presidency.

“We would advise you to follow the order provided of the Lord to govern in your case.”

That you understand to be a correct statement of the duty of this woman in that case, do you?

Mr. TALMAGE. Yes, sir. She is recommended there to follow the order which is approved of or provided by the Lord, as the language of the letter runs.

Mr. TAYLER. So that, to begin a case against a member of the church, wherein one party claims that he is entitled to land that the other party owns or claims to own, or has the title to, and to enter an order requiring the accused to make a deed for that property to the accuser, the plaintiff, and upon her refusal to make that deed, to comply with that order, she should be excommunicated from the church, is to follow the order provided of the Lord?

Mr. TALMAGE. I can not understand counsel’s application of the English language. The order provided of the Lord which is there referred to—

Mr. TAYLER. I will let you answer that in a moment, but I do not want any misapprehension. I am not referring to the merits of the case, Doctor.

Mr. TALMAGE. But counsel has referred to the action requiring that a deed shall be made out—in other words, referred to the details of the case. The order of the Lord which is there referred to is the order by which the church courts are instituted, just as we have an order of state courts, district courts, and supreme courts, and as we have an order of Federal courts. I think we can consider that order of establishment and the relative order possessed by each without having regard to the individual details of a case.

As I understand the letter—as I said, I had never seen it until yesterday—this party is urged not to make an attempt to pass by the high council and appeal from the bishop’s court directly to the presidency, but to follow the order which has been established, which order is in accordance with the revealed law, and therefore may be properly called the order provided by the Lord. She is told if she has any objections—I think it applies to the woman, does it not, who is there the plaintiff?

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. She is told if she has any objection to the decision of the bishop's court, to appeal to the high council, according to the order in such cases made and provided.

Mr. TAYLER. The order of the Lord?

Mr. TALMAGE. The order of the Lord, if you please; and if she does not want to do that, go to the courts of the land, because the first presidency are not going to set aside that order and hear her. That is what I infer to be the meaning of the letter.

Mr. TAYLER. Do they not tell her, in effect, not to go to law?

Mr. TALMAGE. I made that statement on what I thought counsel had read. I may be mistaken.

Mr. WORTHINGTON. What is the page?

Mr. TAYLER. Page 328.

Mr. WORTHINGTON. Let the witness have the letter before him.

Mr. TALMAGE (after reading the letter). Yes; I will say to counsel that in my last remark I was governed by what I thought was the connection, as I had heard him read this once. The reference I made to the expression "or go to law" was not in place, as I see that that occurs in the first paragraph, and as I read this myself now I reiterate my former statement that I can draw no other inference from this but that the first presidency undertook to explain to this party to the suit or to the case that she can not pass by the high council and come directly to the first presidency.

Mr. TAYLER. And that that is all it means?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. And that it is not subject to the interpretation that she is not to go to law?

Mr. TALMAGE. I can not so see. They simply embody, in the first paragraph, the substance of her letter:

"This is in answer to yours of the 10th instant, in which you express a desire to appeal your case direct to us from the bishop's court or go to law."

Mr. TAYLER. "Or go to law;" yes. They say "you can not appeal it direct to us."

Mr. TALMAGE. And therefore you can go to law if you want to.

Mr. TAYLER. That is your interpretation of what it says?

Mr. TALMAGE. That is the way I interpret it; yes.

Mr. TAYLER. Let us read it, then:

"In answer we would say that in all such matters all members of the church are expected to follow the order of the church governing them, and that order provides that an appeal may be taken from the bishop's court to the high council and from the high council to the first presidency.

"We would advise you to follow the order provided of the Lord to govern in your case."

Doctor, would you say that a woman possessing the religious temperament, against whom this order would be made, would likely be very profoundly influenced by an order of the church excommunicating her?

Mr. TALMAGE. I do not know what is the religious status of the party. I would say that any one who prized his or her standing in the church would be profoundly affected by excommunication.

The CHAIRMAN. Doctor, I want to ask you a question right there.

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. In regard to these ecclesiastical trials. How are the judgments or decrees or findings of these courts enforced?

Mr. TALMAGE. In nearly all cases, Mr. Chairman, the judgment is made to provide for alternative action. If, for example, one is found guilty of having defrauded another, the decision is that he shall do thus and so to rectify as far as possible the injury he has wrought, and he must do thus and so within a certain time, or he will be excommunicated from the church.

The CHAIRMAN. Then, in a word, to answer my question, these decrees of these tribunals are enforced, if the party against whom they are made refuses to obey, by excommunication?

Mr. TALMAGE. Or some lighter punishment.

The CHAIRMAN. What lighter punishment?

Mr. TALMAGE. Sometimes by a disfellowship from a ward for a stated time, and, if the Chairman will allow me to add, that, of course, is in cases of the kind referred to, in which it is possible for the party found guilty of having committed the injury to in some way and in some measure atone therefor by making restitution; but there are certain offenses against the moral law in which there is no such alternative given. A man who is found guilty of an offense, that is in and of itself a sin, is given the chance to defend himself, but if found guilty he is often excommunicated without any alternative.

The CHAIRMAN. The usual punishment for disobedience to the verdict or judgment of the tribunal, is excommunication?

Mr. TALMAGE. Yes; that would be the usual punishment, because the one who refused to abide by that would add to the former offense the offense of disobedience.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. Doctor, I understood you to say that the effect of the manifesto of 1890 was and is such as to deprive every plural marriage entered into since that time of every element of ecclesiastical or legal propriety?

Mr. TALMAGE. I express that as my personal opinion and interpretation; yes, sir.

Mr. TAYLER. In your opinion the Mormon people are chaste both in their life and in their opinions, are they not?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. That is one of the chief glories of your people?

Mr. TALMAGE. It is one of their virtues.

Mr. TAYLER. I mean, not one of their special virtues, but one of their virtues that is claimed to be their distinguishing virtue as compared with other peoples in the world?

Mr. TALMAGE. Well, they are not in the habit of making invidious comparisons. They simply attach, I think, a greater degree of gravity to offenses that are opposed to chastity and virtue.

Mr. TAYLER. That is what I mean. Then any person who has entered into plural marriage since the manifesto has committed an unchaste act?

Mr. TALMAGE. Is that a statement or a question?

Mr. TAYLER. It is a question.

Mr. TALMAGE. In my judgment, yes.

Mr. TAYLER. Do you understand that persons, if there are any, who have entered into such relations since that time have been so considered by the community?

Mr. TALMAGE. I do not know of any who have entered into such relations since that time.

Mr. TAYLER. You do not?

Mr. TALMAGE. No, sir.

Mr. TAYLER. Have you heard of Apostle Abram Cannon?

Mr. TALMAGE. If counsel desires to bring up rumors, I have heard of many. I have heard that I have entered into plural marriage since the manifesto, but I knew it to be untrue.

Mr. TAYLER. We have got you on the stand now and you deny it—not that I ever heard the rumor or thought of asking any such question. But you attach to the Abram Cannon case no more importance than that of a mere rumor?

Mr. TALMAGE. I have never investigated it.

Mr. TAYLER. Have you read the testimony in this case?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. All of it respecting that episode?

Mr. TALMAGE. Well, that episode recurs again and again. I have read a great part of the testimony presented in volume 1. I have not had access to the whole of volume 2.

Mr. TAYLER. And, reading the testimony in the case, do you believe that Abram Cannon took a plural wife about 1896?

Mr. TALMAGE. I have no belief on the subject. Abram Cannon is dead.

Mr. TAYLER. That would not affect your belief, would it? Or is it that you do not want to do injustice to a man who is not here to defend himself?

Mr. TALMAGE. That is in part the case. I would like to ask him. I have not seen yet any proof—

Mr. TAYLER. You have not?

Mr. TALMAGE. That is to me conclusive, but I have not given the subject thorough study, realizing—

Mr. TAYLER. You have no—

Mr. VAN COTT. Finish your answer, Doctor.

Mr. TALMAGE. Realizing that there are the proper means of investigation into that, or would be if he were still living.

Mr. TAYLER. So that you had no opinion about it that he had a plural wife?

Mr. TALMAGE. Oh, he had a plural wife. I understand he had plural wives.

Mr. TAYLER. Married to him in 1896?

Mr. TALMAGE. No; I have no definite opinion.

Mr. TAYLER. You have no knowledge that Lillian Hamlin was his plural wife?

Mr. TALMAGE. Only what I have heard or read here.

Mr. TAYLER. That would make no impression upon your mind, in the way of forming an opinion one way or the other?

Mr. TALMAGE. In the way of forming an opinion upon which I would rely; no, sir. I do not consider, in other words, that there is proof.

Mr. TAYLER. You know that Lillian Hamlin's name is associated with him in that relation, do you not?

Mr. TALMAGE. Yes sir; I have heard it associated frequently.

Mr. TAYLER. And you have heard also that she had a child that was called Cannon, have you not?

Mr. TALMAGE. I read that in the testimony, but I had never heard of it otherwise.

Mr. TAYLER. Have you any opinion upon the question, upon the one hand, that Lillian Hamlin was an unchaste woman, or that Abram Cannon did not marry her?

Mr. TALMAGE. I do not think I am brought to the alternative of forming one or the other of those opinions. From what little I know of the lady named, she has always appeared to me to be a lady of refinement and of high virtues in all respects.

Mr. TAYLER. If she did marry Abram Cannon in 1896, then she was not a chaste woman, according to your standard?

Mr. TALMAGE. I say again, is that a statement or a question? If a statement, I pronounce it untrue. If a question, I answer no; that is not my opinion.

Mr. TAYLER. Now, I am in a case of mental fog about it. Read my question, Mr. Reporter.

The reporter read as follows:

"Mr. TAYLER. If she did marry Abram Cannon in 1896, then she was not a chaste woman, according to your standard?"

Mr. TAYLER. That is a question. Was she?

Mr. TALMAGE. According to my standard, not necessarily.

The CHAIRMAN. Not necessarily what?

Mr. TALMAGE. An unchaste woman, Mr. Chairman, for this reason: Though, according to my interpretation of that manifesto to which reference has been made, it rendered all marriages that may have been consummated since, if any, illegal, to use the words, I think, of counsel, in the church as well as out—

Mr. TAYLER. Yes.

Mr. TALMAGE. The parties to this marriage, if such a marriage has occurred, or to any other marriage, may not have so understood it; and I take it that the woman may have entered into that relation—take it as a possibility—with a full understanding that she was acting within the bounds of chastity and propriety, and yet according to my interpretation she may be living in a state of marriage that is not valid and therefore, technically speaking, not in a state of marriage. Therefore, I would not like to answer that question yes or no.

Mr. TAYLER. Do you imagine that if Abram Cannon took a plural wife in 1896 he suspected that he was taking her otherwise than in violation of the law of the church and of the land?

Mr. TALMAGE. I am not Abram Cannon's judge. I do not know how he interpreted that manifesto. I do not know by what authority, if any, he took a wife in 1896 or any other time subsequent to the manifesto.

Mr. TAYLER. Was there difficulty in interpreting the manifesto in respect to the matter of new marriages?

Mr. TALMAGE. There ought not to have been, I take it.

Mr. TAYLER. But you think Abram Cannon may have had difficulty?

Mr. TALMAGE. No, sir; I do not think that inference is warranted.

Mr. TAYLER. What was it you remarked a moment ago? I think I must have misunderstood you.

Mr. TALMAGE. If I understood counsel's question correctly, it was to this effect: Was it my opinion or judgment that if Abram Cannon did marry a plural wife in 1896 he led her to believe she was entering into a marriage that was just. Is that it?

Mr. TAYLER. No; I did not say anything like that.

Mr. TALMAGE. Well, can we have the question read? Then I will know what I am asked to answer.

Mr. TAYLER. Yes; read the question.

The reporter read as follows:

"Mr. TAYLER. Do you imagine that, if Abram Cannon took a plural wife in 1896, he suspected that he was taking her otherwise than in violation of the law of the church and of the land?"

Mr. TALMAGE. I am asked whether I imagine that he suspected he was taking a wife otherwise than in violation of the law of the church and of the land. I answered, I can not imagine what Abram Cannon suspected on that matter.

Mr. TAYLER. Then you would have no opinion at all on the proposition as to whether Abram Cannon understood the manifesto?

Mr. TALMAGE. I do not see that the two are connected, but I will answer. No; I do not know whether he understood the manifesto or not.

Mr. TAYLER. I supposed you would not.

Mr. TALMAGE. If he married a plural wife in 1896 my inference is that he did not.

Mr. TAYLER. Did you know him?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Was he an intelligent man?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. An able man?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. And if he took a plural wife in 1896 you think he did not understand that the manifesto denied it?

Mr. TALMAGE. I say that would be my inference. If he did understand it, he of course was acting contrary to the law of the church.

Mr. TAYLER. But you think he was acting conscientiously?

Mr. TALMAGE. I have not expressed an opinion on that; I do not know whether he was or not. If I found he had married a wife in 1896, after that manifesto had been promulgated and been before the public for six years, my first inference would be that he had committed an improper act and would be amenable, were he living, to the laws of the church. In other words, I could find no excuse except in the thought that he had interpreted it in some other way.

Mr. TAYLER. Do you know Benjamin Cluff, jr.?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Were you at Provo when he lived there?

Mr. TALMAGE. Part of the time; yes, sir.

Mr. TAYLER. When did you leave Provo?

Mr. TALMAGE. In 1888 or 1889.

Mr. TAYLER. You did not live there during the time he was president of the Brigham Young University?

Mr. TALMAGE. No, sir.

Mr. TAYLER. Do you remember delivering an address a few years ago from the same platform with George Q. Cannon, or did you often speak from the same platform with him?

Mr. TALMAGE. I have had the honor of speaking from the same platform in Salt Lake City many times. Can you be specific, if you please?

Mr. TAYLER. The particular occasion to which I refer was on Feb-

ruary 1, 1900, in the tabernacle. Do you remember hearing him deliver an address there on the subject of marriage?

Mr. TALMAGE. No, sir; I do not call to mind the occasion by the date or by the subject.

Mr. TAYLER. Did you speak with him often?

Mr. TALMAGE. As I say, I have many times spoken at the same gathering or meeting at which he spoke.

Mr. TAYLER. Do you remember his saying in your hearing this—

Mr. WORTHINGTON. What page are you reading from?

Mr. TAYLER. Volume 2, page 486. It was published in the Deseret News, and is as follows:

"I mention these to bring to your mind, my brethren and sisters, how much we have loved truth and how desirous we have been to obtain a knowledge of the truth. We have been willing to make sacrifices for the truth's sake. We have not only prayed and talked with our lips concerning truth, but we have actually obeyed the truth, as far as we have known it. For this reason we have been persecuted. The world seems to be anxious that we should confine ourselves to the truths already revealed. But that is not our desire. We are progressing; we are seeking to comprehend more truth. We are earnestly seeking to understand the law that governs truth, and through continued obedience to those laws we hope after a while to get back to the presence of our Father and God. We therefore love the truth and we expect to suffer for the truth.

"All truth has not been revealed. Paul said once he knew a man who had ascended into the third Heaven and he had heard things that were not lawful for man to utter. That has been a good deal the case with us. Many things have been revealed to us which, if we had taught, men would have sought to kill us, so entirely opposed would they have been to the prevailing religious sentiment. This has been the case even with the small amount of truth which we have taught. We can not tell all the truth we know, because it would not be lawful to utter some things that God has revealed."

Do you recall that?

Mr. TALMAGE. No, sir; I do not recall any meeting at which those words were uttered; but I am not taking issue with the sentiments at all.

Mr. TAYLER. You do not take issue with the sentiment, do you?

Mr. TALMAGE. No, sir.

Mr. TAYLER. That is the fact, is it not?

Mr. TALMAGE. Why, yes; I regard what you have read as expressing what is true.

Mr. TAYLER. That is, that there are things which have been revealed to the church which have not yet been made public?

Mr. TALMAGE. Let me see that, if you please. I would like to read it myself.

Mr. TAYLER. I want to ask you that question first.

Mr. TALMAGE. I want to see in what sense—

Mr. TAYLER. No, I want to ask that question first.

Mr. TALMAGE. Put your question in specific form, please.

Mr. TAYLER. Just read it, Mr. Reporter.

Mr. TALMAGE. I did not hear you read that part at all.

Mr. TAYLER. I want to ask the question, and I would like to have the reporter read it.

The reporter read as follows:

"Mr. TAYLER. That is, that there are things which have been revealed to the church which have not yet been made public?"

Mr. TAYLER. Is that a fact?

Mr. TALMAGE. I do not know, except on the authority of what George Q. Cannon said. He may know of some things I do not.

Mr. TAYLER. You do not know of any things that have been revealed that have not been made public?

Mr. TALMAGE. No.

Mr. TAYLER. Did you want to see this?

Mr. TALMAGE. Only in that connection.

Mr. TAYLER. My question was intended as a question to you.

Mr. TALMAGE. Now I desire to finish my answer. I simply wished to look at it before because I thought you were asking me to interpret part of what was there said.

Mr. TAYLER. Did you at that time make an address, or, since you do not recall this time, at any time, in which you admonished your hearers that they must not yield up the secret of their strength.

Mr. TALMAGE. That phrase sounds somewhat familiar to me.

Mr. TAYLER. What does it mean?

Mr. TALMAGE. I believe I delivered an address once, or a lecture, taking for my text the remarkable experience of one Samson, who had long hair, spoken of in ancient writ, and who was played upon by the wiles of woman, by which it was sought to determine just what the secret of his strength was. He had received a promise from the Lord that if he would keep the secret of his strength sacred, it should never fail him, but at last he yielded to the woman's wiles and told her the true secret of his strength. If I remember correctly, and I think I do, since you are kind enough to permit me to deliver the address, in part, over again—

Mr. TAYLER. It is a very good speech.

Mr. TALMAGE. I went on to show that each of us had some gift of God which was to be regarded by us as sacred; and figuratively I spoke of it as the secret of our strength. Then I went on, if I remember correctly—and if I did not I will now, but I think this is along the line of my first edition of this address—to explain that many attempts had been made to discover what I figuratively call the secret of the strength of the Church of Jesus Christ of Latter-Day Saints; that at one time it was said that its whole strength lay in the personality of their leaders; that at first it was claimed that the secret of the strength of the church was the influence that Joseph Smith had over the church. I took occasion to quote utterances by false prophets, as subsequent events proved them to be, to the effect that if they could get Joseph Smith out of the way it would be cutting off the hair of the giant, and the church would be in the hands of the Philistines; but they put him out of the way and they found they had not discovered the secret of the strength of the church. Then the claim was made that the church was held together through the attractions that the practice of plural marriage had for the people, a claim that is hardly worth passing notice; but it was said that polygamy was the secret of the strength of the Latter-Day Saints. However, when that was stopped, or when a cessation of that practice was authoritatively brought about, the church seemed to grow rather stronger than before; and I took occasion to say that the true secret of the Church of Jesus

Christ of Latter-Day Saints, as I understood it, was to be found in their righteous lives, in their Christian conduct, and in their fidelity to the law of godly living.

Now, such, as I understand it, is a part of the address, if I ever gave it before. [Laughter.]

Mr. TAYLER. If you ever gave it before?

Mr. TALMAGE. Yes.

Mr. TAYLER. That is not the speech that I refer to. [Laughter.] So that you are right in your suspicion that you never gave it before, so far as I am concerned. We have derived some profit from your visit here if that has never been delivered before.

Mr. TALMAGE. Thank you, sir.

Mr. TAYLER. Doctor, I was interested in, and we all profited by, your explanation of the power and meaning of the revelations and the freedom of the people to obey. You do not take the stand that God may reveal his will to you or to the people of the church and that you or they, having received the will of God, may disobey it or refuse to submit to it with impunity?

Mr. TALMAGE. Not with impunity, in the sense of being free to accept—

Mr. TAYLER. Free from the consequences of it?

Mr. TALMAGE. In the sense of being free to accept or reject without regard to the consequences.

Mr. TAYLER. If a revelation is made, you are a free agent and do not have to accept it, but, not accepting that which does emanate from God, not obeying a law that may come from Him, you expect to take the consequences of your disobedience?

Mr. TALMAGE. That is true.

Mr. TAYLER. Do you recall what President Smith said upon that subject?

Mr. TALMAGE. No, sir.

Mr. TAYLER. That he said that one might disobey the revelation with impunity?

Mr. TALMAGE. I do not recall it, as I said. If the term "with impunity" was used, he probably meant it in the sense of the thought that a man had the right to accept or reject without fear of interference from his fellows; that the matter is between him and his God; but, as I said in my former answer, I would prefer not to use the term "with impunity," inasmuch as the consequences must be counted upon.

Mr. WORTHINGTON. Mr. Tayler, can you tell me where Mr. Smith said that? I presume you refer to something in the record?

Mr. TAYLER. Page 161, volume 1. I will not take the time to read it now, except that sentence. This refers to separate revelations. You would not make any distinction between the revelation that you knew came from God directly to you and one that came to somebody else, would you, so far as it—

Mr. WORTHINGTON. I would like to see the reference where he said he could disobey a revelation with impunity.

Mr. TAYLER. All right. Page 161:

"Mr. TAYLER. Then the Almighty does not speak by revelations directly to them?

"Mr. SMITH. Yes, sir; but men obey it or not as they please. They are at liberty to obey or not, as they please.

“Mr. TAYLER. Exactly.

“Mr. SMITH. And they disobey if they wish with perfect impunity?”
I omitted the adjective—“perfect” impunity.

That is all, Mr. Chairman, except a question or two that I may want to ask the Doctor in the morning.

Mr. WORTHINGTON. We would like to adjourn now, Mr. Chairman. We have had a long day, and it has been a long day to the witness.

The CHAIRMAN. The committee will adjourn until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 45 minutes p. m.) adjourned until Thursday, January 19, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 19, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Dubois, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

Mr. WORTHINGTON. Mr. Tayler, the stenographer has given me back the original letters sent out to the bishops about court proceedings. The church officials want them returned. Do you care to have them kept here any longer? They have been copied into the record.

Mr. TAYLER. I may want to look at them.

Mr. WORTHINGTON. Then I will keep them.

Mr. TAYLER. I do not think I will, but I do not want them returned for a day or two.

Mr. WORTHINGTON. I will not return them.

TESTIMONY OF JAMES E. TALMAGE—Continued.

The CHAIRMAN. Have you any further questions to put to Mr. Talmage?

Mr. WORTHINGTON. He was under cross-examination when the committee adjourned last evening.

The CHAIRMAN. Mr. Tayler, proceed.

Mr. TAYLER. I will proceed in a moment.

JAMES E. TALMAGE, having previously been duly sworn, was examined and testified as follows:

Mr. TAYLER. Doctor, I asked you yesterday when the revelation respecting celestial and plural marriage first appeared in the Doctrine and Covenants, and you said that you would learn, if you could here, how to answer the question.

Mr. TALMAGE. I answered the question, if counsel please, by saying I did not know. After the close of the session counsel requested me to inquire of other witnesses. I have done that with no better result. I still answer I do not know.

Mr. TAYLER. It did not appear, did it, in the book of Doctrine and Covenants until many years after the Mormon people went to Utah?

Mr. TALMAGE. I am not able to say. The book of Doctrine and Covenants was not compiled in its present form until comparatively late. Indeed, by way of illustration I may cite this fact:

Another of the standard works, known as the Pearl of Great Price, in its original form, contained a number of revelations which are now found in the book of Doctrine and Covenants. Those revelations were republished in each succeeding edition of the Pearl of Great Price, until the bringing out of this last edition, revised by myself. From this edition all those revelations have been omitted, they having now found a permanent place in the book of Doctrine and Covenants. Before its compilation in its present form, the book of Doctrine and Covenants was not known as such; but a book containing some of the commandments and revelations was published under the title of Covenants and Commandments, as I believe, but of this I can not speak with assurance.

I am not aware as to whether the book known as Covenants and Commandments was adopted by a vote of the church in the early days or not; but I am aware of the fact, as attested by the history of the church, that after the compilation of the book of Doctrine and Covenants in its present form it was adopted by the church.

Mr. TAYLER. That is largely a matter of form, I suppose. The book which is now called the Doctrine and Covenants, under whatever name it may have appeared, was first published seventy years or more ago, was it not?

Mr. TALMAGE. I do not know anything about the date of its first publication.

Mr. TAYLER. I am not asking as to the exact date.

Mr. TALMAGE. Then I answer, I do not know even approximately the date of its first publication.

Mr. TAYLER. I do not want to press you on these matters, nor to do you the slightest injustice about them. I want you to correct me if I have erroneously apprehended your posture before this committee. I have assumed that you were here as an expert on the subject of the theological history and polity of the Mormon Church, and that as such you would know quite as definitely as anybody else about these matters with respect to which I am inquiring.

Mr. TALMAGE. I must beg to decline the honor that counsel would attribute to me of appearing here as an expert on church doctrine. I am here as one who has given some little time to the study of the church doctrines and am perfectly willing to give any information I may have without reservation.

Mr. TAYLER. I understand.

Mr. TALMAGE. The date of the adoption of the Doctrine and Covenants by the church and the date of its first publication I can not give for the best and most sincere of reasons—I do not know.

Mr. TAYLER. I do not doubt that at all. You have no doubt that the Doctrine and Covenants, whether by that name or some other, containing nearly all of what is now embodied in the book called the Doctrine and Covenants, was published in the early days of the church?

Mr. TALMAGE. Comparatively speaking, early days, yes. I can not give the date, however.

Mr. TAYLER. There was a revelation respecting marriage prior to the revelation respecting celestial and plural marriage, was there not?

Mr. TALMAGE. I know of no revelation bearing specifically on that subject.

Mr. TAYLER. In the original publication of the Covenants and Commandments was there a section on the subject of marriage?

Mr. TALMAGE. I do not know. I do not think I have ever seen the book itself, known as the Covenants and Commandments, but have seen references to such. Hence I know it by name.

Mr. TAYLER. Was there anything in the published doctrines of the church and in the accepted belief of the members of the church prior to the Joseph Smith revelation respecting celestial marriage, providing this, or this in substance:

"All legal contracts of marriage made before a person is baptized into this church, should be held sacred and fulfilled. Inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy, we declare that we believe that one man should have one wife, and one woman but one husband, except in case of death, when either is at liberty to marry again."

Mr. TALMAGE. What is the question counsel presents on that matter?

Mr. TAYLER. Just read it.

The reporter read as follows:

"Mr. TAYLER. Was there anything in the published doctrines of the church and in the accepted belief of the members of the church prior to the Joseph Smith revelation respecting celestial marriage, providing this, or this in substance:

"All legal contracts of marriage made before a person is baptized into this church should be held sacred and fulfilled. Inasmuch as this Church of Christ has been reproached with the crime of fornication and polygamy, we declare that we believe that one man should have one wife, and one woman but one husband, except in case of death, when either is at liberty to marry again."

Mr. TALMAGE. I do not know. I have never heard that before.

Mr. TAYLER. That is to say, for the first time this phraseology or the substance of it is called to your attention as a claimed dogma or instruction issued to the people of the Mormon Church?

Mr. TALMAGE. That is true.

Mr. TAYLER. Have you ever, in your study respecting the history and dogmas of the church, run across any authoritative declaration on the subject of marriage, except the Joseph Smith plural-marriage revelation?

Mr. TALMAGE. None except the revelation to which you refer by that name, but that is not a plural-marriage revelation specifically. It is the revelation on celestial marriage, including the plural-marriage doctrine.

Mr. TAYLER. That is right. It referred to both subjects.

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Of course when I refer to it in that way I do it for the sake of brevity, and we understand it.

On the subject of the administration of law, you read from section 42 of the book of Doctrine and Covenants, in which, without reading all of them, you refer to verse 84.

"And if a man or woman shall rob, he or she shall be delivered up unto the law of the land.

"And if he or she shall steal, he or she shall be delivered up unto the law of the land.

"And if he or she shall lie, he or she shall be delivered up unto the law of the land.

"And if he or she shall do any manner of iniquity, he or she shall be delivered up unto the law, even that of God."

Do you interpret "the law of the land" in verse 84, as meaning the same exactly as "unto the law, even that of God."

Mr. TALMAGE. I beg to remind the counsel that I did not read that of my own initiative at all. Those are passages referred to in a letter sent by the presidency of the church to a correspondent, the letters passing between those correspondents having been presented here in connection with the land cases supposed to have been tried by the church courts. But that does not at all interfere with my willingness to make any explanation I can.

My interpretation of that, and it is purely a personal opinion, is this: That the eighty-seventh paragraph is a summary of all that has gone before; that certain offenses are referred to by way of illustration, and the statement authoritatively made that offenders in those respects shall be handed over or given up or dealt with by the law and according to the law of the land, and that in all those cases of iniquity and other cases, they shall also be dealt with according to the law of God; which means, if it means anything, according to my interpretation, that if a man shall rob or steal, he shall be dealt with according to the law of the land provided in such cases, but he shall also be dealt with according to the law of the church and be removed from the church if his offense warrants such action.

Mr. TAYLER. As a matter of fact, if a man steals, your policy is to turn him over to the administration of the civil and municipal law, is it not?

Mr. TALMAGE. That is the construction given in the paragraph cited by counsel, and that is in accordance with the sentiment of the members of the church.

Mr. TAYLER. If there is some dispute about rights between parties, you undertake to dispose of it in your church courts, do you not?

Mr. TALMAGE. Dispose of it, perhaps, in this sense: If it be a case that could be settled by arbitration, a case involving no criminal element, but a case of the kind known in the law as a civil case, then the church courts would do their best to settle that matter of civil dispute between the members of the church. But if there be the element of criminality under the secular law, the case would be one with which the law of the land would deal.

Mr. TAYLER. You, I believe, were asked something about the ceremonies in the endowment house?

Mr. TALMAGE. Would you indulge me, Mr. Tayler, one moment before I answer that question?

Mr. TAYLER. Certainly.

Mr. TALMAGE. I have been trying to call to mind the earliest record known to me of the codification, I may say, of the commandments and covenants published under the name first of Covenants and Commandments. I find a reference that may be of interest to you, on page 243, the beginning of chapter 18 of volume 2 of the History of the Church, where I read as follows, it is an earlier reference than I have been able to give you heretofore:

"A general assembly of the Church of Latter-Day Saints was held at Kirtland on the 17th of August, 1835, to take into consideration the labors of a committee appointed by a general assembly of the church on the 24th of September, 1834, for the purpose of arranging the items of the doctrine of Jesus Christ for the government of the church. The names of the committee were: Joseph Smith, jr., Sidney Rig-

don, Oliver Cowdery, and Frederick G. Williams, who, having finished said book according to the instructions given them, deem it necessary to call a general assembly of the church to see whether the book be approved or not by the authorities of the church; that it may, if approved, become a law and a rule of faith and practice to the church. Wherefore, Oliver Cowdery and Sidney Rigdon, members of the first presidency (Presidents Joseph Smith, jr., and Frederick G. Williams being absent on a visit to the saints in Michigan), appointed Thomas Burdick, Warren Parrish, and Sylvester Smith clerks, and proceeded to organize the whole assembly as follows."

Then follows a description of the organization, which can be read if desired, and then follows over signature the testimony of the twelve apostles to the truth of the book of Doctrine and Covenants, which reads as follows:

"The testimony of the witnesses to the book of the Lord's Commandments, which commandments He gave to His church through Joseph Smith, jr., who was appointed, by the voice of the church, for this purpose.

"We, therefore, feel willing to bear testimony to all the world of mankind, to every creature upon the face of all the earth, that the Lord has borne record to our souls, through the Holy Ghost shed forth upon us, that these commandments were given by inspiration of God, and are profitable for all men and are verily true. We give this testimony unto the world, the Lord being our helper; and it is through the grace of God the Father and His Son Jesus Christ that we are permitted to have this privilege of bearing this testimony unto the world, in the which we rejoice exceedingly, praying the Lord always that the children of men may be profited thereby."

It is signed by Thomas B. Marsh and many others.

Mr. WORTHINGTON. How many?

Mr. TALMAGE. Twelve in all. Evidently it is the record of the twelve apostles, the quorum of the twelve. Thomas B. Marsh is first and Lyman Johnson is last. The others, according to the record here given, including Leonard Rich, Bishop Whitney, Acting Bishop John Corrill, Acting President John Gould, Ira Ames, acting president, Erastus Babbitt, acting president, William Burgess, acting president, and Assistant President Thomas Gates, all bore testimony to the authenticity of that work.

Mr. TAYLER. Is there in that a statement in paragraphs of what they did, signed by the officers?

Mr. TALMAGE (after examining). Do you mean the actual adoption?

Mr. TAYLER. Yes. Were not the proceedings or the official account of those proceedings written and signed by Oliver Cowdery, Sidney Rigdon, presidents; Thomas Burdick, Warren Parrish, and Sylvester Smith, clerks?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Have you that there?

Mr. TALMAGE. Yes, sir; the matter composing the whole chapter which is there presented is signed by the parties you named.

Mr. TAYLER. Is there a paragraph 13 there, Doctor?

Mr. TALMAGE. The paragraphs are not numbered, sir. The signa-

tures named are followed by the title-page and preface of the first edition of the Doctrine and Covenants.

Mr. TAYLER. What are the last words just before the signature of Oliver Cowdery?

Mr. TALMAGE (reading). "After which the assembly was blessed by the presidency with uplifted hands, and dismissed."

Mr. TAYLER. Then go back two paragraphs and see if there is not a paragraph on marriage or a reference to marriage, beginning "President W. W. Phelps."

Mr. TALMAGE. You say the paragraph begins with the words "President W. W. Phelps?"

Mr. TAYLER. I think so.

Mr. TALMAGE. I have to go back two and a half pages to find that:

"President W. W. Phelps then read the following article on marriage, which was accepted and adopted and ordered to be printed in said book, by a unanimous vote."

Mr. TAYLER. Without taking time to go all over it, see if that is what I have just read. Read the first half of the paragraph I have called your attention to, and see if it does not accord with what I read to you a few minutes ago.

Mr. TALMAGE (reading). "The clerk of every church should keep a record of all marriages solemnized in his branch. All legal contracts of marriage made before a person is baptized into this church should be held sacred and fulfilled. Inasmuch as this church of Christ has been reproached with the crime of fornication and polygamy, we declare that we believe that one man should have one wife, and one woman but one husband, except in case of death, when either is at liberty to marry again."

Mr. TAYLER. That is as far as I read. Do you know how long that was continued?

Mr. WORTHINGTON. Will you keep the place in the book so that I can look at it when you are through?

Mr. TALMAGE. Certainly.

Mr. WORTHINGTON. What page is it?

Mr. TALMAGE. Page 247.

Mr. TAYLER. Do you know how long that continued to be the law of the church?

Mr. TALMAGE. No, sir.

Mr. TAYLER. The published law of the church?

Mr. TALMAGE. No, sir.

The CHAIRMAN. Let me understand you. Do you mean to say you do not know when that law was abrogated and the law of polygamy inserted?

Mr. TALMAGE. I think, Mr. Chairman, there never was a time at which that was abrogated or substituted by the law you refer to, though I beg to say, not by its proper title—

The CHAIRMAN. I understand, but you know what I mean.

Mr. TALMAGE. Yes; formally or by vote of the church. The insertion of that had entirely escaped my mind. I paid comparatively little attention to these historical features—

The CHAIRMAN. I do not want to prolong matters. I simply wanted to know that fact in the line of what Mr. Tayler was asking about.

Mr. TALMAGE. That is the law of the church to-day virtually.

The CHAIRMAN. When did this other doctrine become embodied in the Book of Covenants?

Mr. TALMAGE. That is the question which counsel has asked me many times.

The CHAIRMAN. And you do not know?

Mr. TALMAGE. I can not answer. I do not know.

The CHAIRMAN. Mr. Tayler, go on.

Mr. TALMAGE. The superscription or title of the revelation states that it was given in 1843.

The CHAIRMAN. The paragraph to which Mr. Tayler has called your attention, and which you have just read, relating to marriage, was in 1834?

Mr. WORTHINGTON. 1835.

The CHAIRMAN. 1835?

Mr. TALMAGE. The adoption was in 1835, according to the record.

Mr. TAYLER. You say that is the law of the church to-day?

Mr. TALMAGE. I say virtually so, not by special adoption, but that is the practice of the church, to recognize the validity of marriages consummated or solemnized under the law of the land and to forbid polygamous marriages.

Mr. TAYLER. Oh, yes; since the Manifesto. This is the law now?

Mr. TALMAGE. Yes.

Mr. TAYLER. I misunderstood the interpretation you gave it.

Now, just one word in the interest of exact accuracy in the matter of the name of this book. Was not this book always, after it became a book, the Doctrine and Covenants in its title, although the head of the page was then, and is now, in this volume of the Doctrine and Covenants, "Covenants and Commandments?"

Mr. TALMAGE. Yes; I think counsel is correct.

Certainly the book is named in the official act of adoption in 1835 the book of Doctrine and Covenants, and it has been so called ever since.

I have seen references to the Book of Covenants and Commandments, but, as I say, I have never seen a copy of that book.

Mr. TAYLER. Perhaps you had not noticed it—I would not if you had not spoken about it—but even this last edition of the Doctrine and Covenants, published by the church at Salt Lake City, has on the back of it and on the title page "The Doctrine and Covenants," while at the heading of all of the pages the words are "Covenants and Commandments."

Mr. TALMAGE. Yes; I am fully aware of that. But I had the impression that a compilation had first been put out under the name of Covenants and Commandments, which impression may or may not be correct. Since 1835 it has been the book of Doctrine and Covenants, according to the record I have read from the history of the church.

Mr. TAYLER. To go to the point that I introduced a few moments ago, when did the church introduce into its ceremonies a secret ritual?

Mr. TALMAGE. I know of no secret ritual other than temple ceremonies.

Mr. TAYLER. That is what I mean.

Mr. TALMAGE. I do not know when.

Mr. TAYLER. Have you any idea?

Mr. TALMAGE. No; absolutely none.

Mr. TAYLER. Did the church have it at Kirtland?

Mr. TALMAGE. I do not know. Presumably so, since a temple was erected at Kirtland, but I do not know of any record on that subject.

Mr. TAYLER. Were not the services there, the endowments, public?

Mr. TALMAGE. I do not know. If they were endowments in the ordinary sense of the term, or in the sense in which the term is now applied, I should say most likely, almost assuredly, not.

The CHAIRMAN. Mr. Tayler, may I ask a question right here for my own information?

Mr. TAYLER. Certainly.

The CHAIRMAN. Do you know whether or not the services at Kirtland, in the temple, are now open; are public services?

Mr. TALMAGE. Are now open?

The CHAIRMAN. I do not mean this minute, but whether they are open services or secret services?

Mr. TALMAGE. At the present time?

The CHAIRMAN. Yes.

Mr. TALMAGE. I know nothing about it. The Church of Jesus Christ of Latter-Day Saints has nothing to do with the Kirtland temple. It is in the hands of the reorganized church. I say I know nothing about it, though I do know this—

The CHAIRMAN. I am speaking of the reorganized church occupying that building. Do you know whether their services are secret or public?

Mr. TALMAGE. I know nothing. I have had the privilege of visiting that building once—

The CHAIRMAN. Have you any information on the subject?

Mr. TALMAGE. No, sir; nothing except a general impression.

The CHAIRMAN. Is it your impression that they are secret?

Mr. TALMAGE. No, sir; my impression is they are public, but I know nothing definite on the subject.

Mr. TAYLER. Do you understand that the reorganized church has departed from the methods that were prevalent prior to the death of Joseph Smith?

Mr. TALMAGE. I confess my ignorance as to the tenets and practices of the reorganized church.

I am thoroughly convinced of the departure of the reorganized church, so called, from the possession and exercise of and control by the authorized priesthood, and I have taken no interest in investigating them further.

Mr. TAYLER. Is it your understanding that the reorganized church has repudiated, repealed, or modified a single revelation that the church was known to be in possession of prior to the death of Joseph Smith?

Mr. TALMAGE. I know of no specific instances of such, and therefore could not answer.

Mr. TAYLER. Your understanding is, whatever different interpretations may have been put upon revelations, that the reorganized church assumes and claims to stand upon every word and line that the other branch of the church stood upon prior to Joseph Smith's death?

Mr. TALMAGE. I have heard that that is the assumption by them.

Mr. TAYLER. And that in their books they publish every word and line that was known to the people prior to that time?

Mr. TALMAGE. I have heard that they so claim.

Mr. TAYLER. Now, as to the date when secrecy in these ceremonies first appeared, you can give me no information?

Mr. TALMAGE. No, sir.

Mr. TAYLER. You stated, if I remember correctly, that there was no vow or obligation taken during the ceremony?

Mr. TALMAGE. I am not aware of having said anything of the kind.

Mr. TAYLER. What was it you said in that connection?

Mr. TALMAGE. I stated that there was no oath taken. Most assuredly an obligation is taken when one enters into any kind of an ordinance, sacred or otherwise. There must be some obligation. There is an obligation connected with the ordinance of baptism. There is an obligation connected with the ordinance of marriage, within or outside the church.

But, in the matter of oaths, I have stated that I have taken no oath in any part of the temple ceremony or in any other ceremony connected with the church.

Mr. TAYLER. But that you had taken certain obligations?

Mr. TALMAGE. I had considered myself under certain obligations. As to whether I took them in formal manner or not, I am not impressed that I did, except in the marriage vows, which are of a kind, common in nature to those made elsewhere, with the modification implied in the revelation of celestial marriage.

Mr. TAYLER. I understand. Then, if I use the term, it will be in the sense in which you are using it—that it was an obligation that you assumed, whether it was in formal terms, as you put it, or whether it came from the method in which the duty was enjoined upon you. Was an obligation of chastity taken?

Mr. TALMAGE. I consider myself under an obligation of chastity.

Mr. TAYLER (to the reporter). Will you read the question?

The CHAIRMAN. That is not answering the question.

Mr. TALMAGE. I do not remember any definite obligation there taken in a formal manner—I am not trying to evade the question at all—but, as already stated, in answer to counsel, there are certain obligations under which I consider myself placed, whether taken formally or not, and in connection with my membership in the church, I consider myself under that obligation, and it is just as binding on me as if I had taken it in the form of an oath.

The CHAIRMAN. Now the question was a very simple one—whether you took an obligation of chastity?

Mr. TALMAGE. In the sense in which I have used the term “obligation,” in considering myself under it, whether taken in due form or not, I answer “yes.”

The CHAIRMAN. The question is whether such an obligation was taken?

Mr. WORTHINGTON. In that ceremony?

Mr. TALMAGE. And in the sense in which I have used the term; yes.

The CHAIRMAN. In the sense that you feel yourself under that obligation all the time, without regard to that—

Mr. TALMAGE. Whether administered in formal manner or not I can not say—

The CHAIRMAN. But can you not tell the committee whether in that ceremony there was an obligation of chastity?

Mr. TALMAGE. I answer yes. I have already explained what I mean by obligation.

The CHAIRMAN. We understand. What next, Mr. Tayler.

Mr. TAYLER. Was there an obligation of sacrifice?

Mr. TALMAGE. No; not as I understand your term.

Mr. TAYLER. Was there anything in this ceremony that led you to promise, either in terms or by implication, to devote yourself for life, and your best efforts, to the cause of your church?

Mr. TALMAGE. To the question presented in that form I will have to answer "no." I am quite willing to make an explanation if desired.

Mr. TAYLER. Yes.

Mr. TALMAGE. I can not say that any specific obligation was administered or taken to that effect, but by implication I consider myself under obligation to devote my energies and weak talents to the advancement of truth, but not to the advancement of the church specifically. I know of no obligation to that effect.

Mr. TAYLER. Then there is nothing at all specific in the ceremonies which refers to any personal duty on your part to the church?

Mr. TALMAGE. Is that a question?

Mr. TAYLER. Yes.

Mr. TALMAGE. I call to mind nothing of the kind.

Mr. TAYLER. Is there any obligation respecting the prophets?

Mr. TALMAGE. Is that the whole of your question?

Mr. TAYLER. Yes.

Mr. TALMAGE. I do not understand it.

The CHAIRMAN. Read the question.

The reporter read as follows:

"Mr. TAYLER. Is there any obligation respecting the prophets?"

Mr. TALMAGE. I can not tell what you mean by an obligation respecting the prophets. Will you kindly be specific?

Mr. TAYLER. If you think I must be.

Mr. TALMAGE. Certainly, sir, if I am to answer it, because I can not answer what I do not understand.

Mr. TAYLER. You have no idea what I mean?

Mr. TALMAGE. No, sir.

Mr. TAYLER. None at all?

Mr. TALMAGE. No, sir. Your question suggests to me absolutely nothing connected with any ceremony I have passed through.

Mr. TAYLER. Then there is not anything about it. Why could you not answer it that way?

Mr. TALMAGE. Because the question is so indefinite and I do not wish to give definite answers to indefinite questions. You asked me if there be any obligation with respect to the prophets?

Mr. TAYLER. Exactly. Is there or is there not? Can you not tell, or have you forgotten, or do you not know?

Mr. TALMAGE. If that question is to be considered definite, I simply have to answer I know nothing about it.

Mr. TAYLER. Is there any reference to the prophets in the ceremonies?

Mr. TALMAGE. I remember none.

Mr. TAYLER. Is there any reference by name, or description, or implication to Joseph Smith?

Mr. TALMAGE. I remember none.

Mr. WORTHINGTON. You mean Joseph Smith, jr., the prophet?

Mr. TAYLER. Of course.

Mr. TALMAGE. I remember none.

Mr. TAYLER. And your attention is nowhere in the ceremony called to any of the early leaders of the church?

Mr. TALMAGE. I remember none; that is, I remember no instance of my attention being called to such as you ask.

Mr. TAYLER. There was a witness here the other day, put on the stand by Senator Smoot, who testified that there was an obligation to the effect that they were to pray God to avenge——

Mr. WORTHINGTON. The blood of the prophets on this generation.

Mr. TAYLER. The blood of the prophets on this generation. Do you recall anything in substance of that kind?

Mr. TALMAGE. Not as I have read it.

Mr. TAYLER. Not as you have what?

Mr. TALMAGE. And nothing in the way of any covenants respecting, or prayer for vengeance on anybody in any sense that is other than spiritual; and the details I do not remember.

Mr. TAYLER. So, if you felt free to state what the language was upon which this statement of Mr. Dougall seems to be based, you would say that it contained no such words?

Mr. TALMAGE. I should like to see the statement of Mr. Dougall to which you refer. I have not read that part. I have not had those sheets in my hands.

Mr. TAYLER. Mr. Worthington quoted it for me. I want to be careful not to make a mistake about it. But it seems that the copy containing that expression is in the printing office.

Mr. WORTHINGTON. I am perfectly clear in my recollection of the exact substance. He said it was an obligation to avenge the blood of the prophets on this generation.

Mr. TAYLER. I am sure that is right, also.

Mr. WORTHINGTON. He said something about its being said in a lecture, but that was the language.

The CHAIRMAN. Used in the course of the ceremony.

Mr. TAYLER. Yes.

If you felt free to repeat this whole ceremony, you would not be able to tell us what was said in respect to the subject that Mr. Dougall had in mind when he testified. Is that correct?

Mr. TALMAGE. That is correct. I do not remember the details. It is many years since I have thought of these matters.

Mr. TAYLER. That is all.

The CHAIRMAN. Right here, when did you say you took the endowments?

Mr. TALMAGE. In 1882, Mr. Chairman.

The CHAIRMAN. In 1882?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. And when were you last present at such a ceremony?

Mr. TALMAGE. I stated yesterday, and can be no more definite to-day, several years ago; five anyway, possibly more.

The CHAIRMAN. Five years ago?

Mr. WORTHINGTON. At least five.

Mr. TALMAGE. At least five. [A pause]. Oh, it is more than that. It is at least eight, as I call to mind the years. It is at least eight, and more than that, most likely.

Mr. TAYLER. I have one question I want to ask.

The CHAIRMAN. All right.

Mr. TAYLER. What is your position now?

Mr. TALMAGE. My professional work?

Mr. TAYLER. Yes.

Mr. TALMAGE. I am professor of geology in the University of Utah.

Mr. TAYLER. Did you hold some other position in that university?

Mr. TALMAGE. Yes. I was president of the university; that is, I held the office of president in addition to the professorship for three years, and then resigned the presidency so as to continue my work in connection with the scientific department.

Mr. TAYLER. You did not have any difficulty with the board of trustees, resulting in your resignation?

Mr. TALMAGE. None.

Senator DUBOIS. Doctor, are you familiar with the testimony which young Mr. Merrill gave before the committee?

Mr. TALMAGE. No, Senator, I have not read it with any care. I think I have seen the newspaper synopses; that is all.

Senator DUBOIS. My recollection is that he testified that his father, Apostle Merrill, married him shortly after the manifesto in 1891, he having a wife at the time.

Mr. WORTHINGTON. No legal wife.

Senator DUBOIS. He married a wife in 1888.

Mr. TAYLER. In 1887.

Senator DUBOIS. 1887. He married another wife in 1888. In 1889, I think it was, the 1887 wife died.

Mr. TAYLER. That is right.

Senator DUBOIS. And in 1891 his father, the apostle, married him to another wife. I think that was the testimony.

Mr. TAYLER. That is right.

Senator DUBOIS. Do you approve of the action of Apostle Merrill in that case?

Mr. TALMAGE. If he knew what he was doing, no. If the son practiced any deception, I do not approve of what he did. If Apostle Merrill thought at the time that his son had no other wife living, it would be different. I do not know what he thought. I do not know what the circumstances were. In a general way, if all the circumstances were understood, I should answer no; I do not approve of any such action.

Senator DUBOIS. The claim made was that he had no legal wife in 1891, his first wife having died. Under that state of affairs, you would not approve what Apostle Merrill did?

Mr. TALMAGE. With the explanation I have given, I repeat my answer—no, sir.

Senator DUBOIS. Have you or anyone else undertaken to manifest your disapproval?

Mr. TALMAGE. No, sir. I have not had time to look into it. I never heard of the matter until I read the newspaper synopses of the evidence of that part of this case here given.

Senator DUBOIS. Do you think there would be a general resentment toward Apostle Merrill for having performed this ceremony in 1891 under those circumstances?

Mr. TALMAGE. I think before any general resentment were indulged or expressed, a very thorough investigation would be in order to find out what the circumstances were. To proceed toward possible disruption on the impulse of such resentment before the investigation

would be as bad as for a judge, sitting to consider an important case, Senator, giving his decision before the defense in the case has been heard at all; and to express that resentment publicly would, in my humble opinion, be as reprehensible as for any such judge to go out and announce his decision before he had heard what could be said on the other side. I have not investigated it at all.

Senator DUBOIS. You understand that young Mr. Merrill himself gave his testimony?

Mr. TALMAGE. I understand from what you say that such was the case, Mr. Senator, but I am not familiar with the details of the evidence given by him.

Senator DUBOIS. That testimony created no unfavorable impression on the minds of the people of that section of the country?

Mr. TALMAGE. It did on my mind; yes, sir. I do not know what it produced on the minds of others.

Senator DUBOIS. Is it not a fact that Mr. Merrill has been elected to the present legislature from that community?

Mr. TALMAGE. I do not know.

Mr. VAN COTT. I do not think it is that Merrill.

Mr. TAYLER. Is it another polygamist, but not that one.

Senator DUBOIS. Is it not that Merrill? If a vacancy occurs in the quorum of apostles, how is that vacancy filled, Doctor?

Mr. TALMAGE. By nomination made to the people, and by their vote. The nominee thus sustained or confirmed by the vote of the people would of course have to be ordained in the manner prescribed. He thus becomes an apostle.

Mr. TAYLER. Doctor, I find this short paragraph in the decision of Judge Philips in the Temple Lot case. You remember the litigation which occurred between the two branches of the Mormon Church. I will read you this paragraph, and inquire if it does not refresh your recollection about the subject of the Book of Doctrine and Covenants.

Mr. WORTHINGTON. The Temple Lot case in what court?

Mr. TALMAGE. I do not know what is meant by the Temple Lot case or litigation.

Mr. TAYLER. Did you ever hear of the case of The Reorganized Church of Jesus Christ of Latter-Day Saints versus The Church of Christ et al., in the circuit court of the United States, for the western division of the western district of Missouri, in which the title to property at Independence, Mo., was determined?

Mr. TALMAGE. I know of no dispute that has ever come up between the reorganized church and the Church of Jesus Christ of Latter-Day Saints, and I do not know what church you refer to under the name of the Church of Christ.

But I do remember something about a case at law in Missouri, regarding the title of what is known as the temple block or temple lot, between the reorganized church and some private parties, or officers of a small sect, claiming title to that lot or block. But it was not, as I understand, between the reorganized church and the Church of Jesus Christ of Latter-Day Saints.

Mr. TAYLER. That is unimportant so far as the point I am getting at is concerned. I only wanted the identity of the case.

In the decision of Judge Philips occurs this paragraph:

"When the present president of the Salt Lake Church, Wilford Woodruff, was on the witness stand, he testified that on the 15th of

November, 1844, there was no marriage ceremony in the church except that published in the [Book of Doctrine and Covenants] edition of 1835. He was then asked why the church, of which he is president, in the publication of the Book of Doctrine and Covenants in the Salt Lake edition of 1876, eliminated the section on marriage as found in the 1835 edition and in all editions thereof published up to 1876, and inserted in lieu thereof the claimed revelation on polygamy of July, 1843."

To which President Woodruff answered:

"I do not know why it was done. It was done by the authority of whoever presided over the church, I suppose. Brigham Young was the president then."

Have you any reason for doubting the accuracy of that statement of Judge Philips?

Mr. TALMAGE. I know nothing about it. I had never heard of the matter until you have just read it; that is, I had never heard of the details of that testimony.

The CHAIRMAN. Let me inquire, Was Judge Philips the presiding judge in that case?

Mr. TAYLER. John F. Philips.

The CHAIRMAN. Was he the presiding judge in that case?

Mr. TAYLER. He was the presiding judge in the United States circuit court.

Mr. WORTHINGTON. Could Brigham Young, as president of the church or otherwise, have substituted one passage for another in the Book of Doctrine and Covenants so as to bind the church without the matter being submitted to the people in general conference assembled and approved by them?

Mr. TALMAGE. No, sir.

Mr. WORTHINGTON. You suggested to me this morning that you wished to make a correction in your testimony of yesterday in reference to the person whom you named as having been one of the wives of Joseph Smith, jr. I will give you that opportunity.

Mr. TALMAGE. Thank you.

Yesterday, counsel for the protestants, I think, asked me in regard to my statement that there were women known to me who had stated that they were wives of Joseph Smith; and I named one whom I should not have named, who was present at the time I was talking with others. That was Mrs. Bathsheba Smith. The name Smith suggested to me the relationship, and I find I was entirely incorrect.

Mr. TAYLER. I myself felt that you were in error, but I did not know.

Mr. TALMAGE. The names I intended to give, the names of the ladies then present, who have stated to me that they were the wives, the plural wives, of Joseph Smith, I can give if desired.

Mr. TAYLER. Yes; I think you might as well.

Mr. WORTHINGTON. Let us have them.

Mr. TALMAGE. One is Mrs. Lucy W. Kimball, a personal acquaintance of mine, and the other, now dead, Mrs. Zina D. H. Young.

Mr. WORTHINGTON. You have spoken on your cross-examination of an apostle, after he has been nominated and sustained or confirmed by the body of the people, having to be ordained. Is there anything in that ceremony of being ordained which calls for any fresh obligation or oath, or anything of that kind on his part?

Mr. TALMAGE. Oh, absolutely nothing. As far as I understand, it is the ordinary ordination; that is an ordination after the ordinary plan by which one is ordained to any office in the priesthood, be it that of deacon or high priest in the church.

Mr. WORTHINGTON. There is no such thing as an oath taken by an apostle as an apostle, or as preliminary to his becoming an apostle?

Mr. TALMAGE. I have never heard of such, except I do call to mind mention of the oath of apostleship which occurs in one of the books published not by the church or with the sanction of the church, but by some one in the church, and is quoted in a work that is official.

Mr. WORTHINGTON. Have you that here?

Mr. TALMAGE. Yes; it was an oddity, and I remember making a note of the place of its occurrence.

Mr. TAYLER. I have no objection to this drifting in to contribute to the general gayety and enlightenment of the world, but as a matter of substantive proof, I do object.

Mr. WORTHINGTON. Do you mean it could not be proved in this way?

Mr. TAYLER. Not when you have witnesses at hand who can go on the stand and testify to it.

Mr. WORTHINGTON. This is something about an oath taken before any of these people were born.

Mr. TAYLER. Oh, I do not care anything about it, except that I do not want to be foreclosed by the claim that this is proving what the apostle's oath is.

Mr. WORTHINGTON. All right. He has already testified that there is no such thing as an oath by the apostle nowadays. But he has found somewhere what purports to be an oath taken back in the thirties some time, is it, Doctor?

Mr. TALMAGE. Back when?

Mr. WORTHINGTON. In the thirties.

Mr. TAYLER. The first thing you know I will be putting in this book *The Mormon Monster*, to show what some people think about it.

Mr. WORTHINGTON. Nothing you can do will surprise us after what you have done.

Mr. TAYLER. Not after this.

Mr. WORTHINGTON. You have put in all the proceedings of the Democratic State convention—

Mr. TAYLER. Not all of them. I draw the line there—not all.

Mr. WORTHINGTON. I notice in it a very strong argument on the subject of the tariff.

Mr. VAN COTT. All that was claimed to be material went in.

Mr. TALMAGE. This was back in 1835, Mr. Worthington.

Mr. WORTHINGTON. Do you make objection to it?

Mr. TAYLER. What do you want to do?

Mr. WORTHINGTON. The witness has found what purports to be a record of an oath taken by the apostles in 1835, and it is the only evidence we find that the apostles ever took an oath, and I should like to get it into the record.

Mr. TAYLER. Do you mean that you seriously offer that as showing what the oath was, or as a statement of what somebody else said was the oath?

Mr. WORTHINGTON. The statement of what the general reputation was, at that time, as to what the oath was.

Mr. TAYLER. I object to that.

The CHAIRMAN. I do not think it is admissible.

Mr. WORTHINGTON. I do not care anything about what the oath purports to be, but where did you get your information about it, Doctor?

Mr. TALMAGE. In the Church History, volume 2, page 198.

Mr. WORTHINGTON. Does that purport to give the original authority? That is a recent book, I know.

Mr. TALMAGE. Yes, sir. The statement is made that one of the apostles, Parley P. Pratt, took the oath of apostleship, which he gives, occupying about five lines, and calls it the oath and covenant of apostleship, and it is the only reference I have ever found—

Mr. WORTHINGTON. That is an official publication of the church?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Now, I renew my offer. The witness has been reading extracts from this book for two days, and from all sorts of books published by all sorts of people.

Mr. TAYLER. I have never yet undertaken to prove anything when I had the real thing at hand, at my elbow, literally.

Mr. WORTHINGTON. I have always said—

Mr. TAYLER. I do not—

Mr. WORTHINGTON. One moment.

Mr. TAYLER. I do not object to this. Let it go in, so far as I am concerned.

The CHAIRMAN. Read it.

Mr. TAYLER. I thought it was some fairy tale that some outsider had said was the oath, and you wanted to show what ridiculous things people sometimes said. But if it is what the church says is the oath, I have no objection to its going in.

The CHAIRMAN. The Chair understands it is not the oath taken in the course of the endowments, but the oath as an apostle?

Mr. WORTHINGTON. The oath which was taken in those days, or appears to have been.

I should like to say, in reference to fairy tales, that I think Mr. Tayler must be getting his evidence mixed up with ours.

Mr. TAYLER. No; I was not mixing it up with any evidence at all.

The CHAIRMAN (to the witness). Read that.

Mr. TALMAGE. On page 192, volume 2, History of the Church, appears a part of the minutes begun on a preceding page of a meeting at which instructions were given to the apostles who were about to depart on missions, and some of whom had been newly ordained. The presiding officer—

Mr. TAYLER. Give the date?

Mr. TALMAGE. February 21, 1835. The presiding officer is referred to. Now I quote:

“He then took them separately by the hand and said, ‘Do you with full purpose of heart take part in this ministry, to proclaim the gospel with all diligence, with these your brethren, according to the tenor and intent of the charge you have received?’ Each of them answered in the affirmative.”

This is referred to in the autobiography of Parley P. Pratt, page 127, under the designation “Oath and Covenant of the Apostleship,” the only reference to any such oath or covenant I have ever found in any of the publications of the church.

Mr. WORTHINGTON. Mr. Tayler has read in evidence from page 247 a paragraph headed “Article on marriage,” read by President

W. W. Phelps, which is, in effect, a charge that monogamy should be the practice of the church. I want to call attention to the fact that there is a footnote referred to by an asterisk after the word "marriage" in the phrase "President W. W. Phelps then read the following article on marriage," and that footnote is as follows:

"It should be observed that this 'Article on marriage' presented by W. W. Phelps, and also the one on 'Government and laws in general,' presented by Oliver Cowdery, were not presented as revelations and were not published as such at the time, but were expressions, of course, of the belief of the saints at that period on those subjects."

Mr. TAYLER. Is that a question?

Mr. WORTHINGTON. I suppose I may as well read it as to have the witness do so.

Mr. TAYLER. That is your reading?

The CHAIRMAN. Is there anything further?

Mr. WORTHINGTON. One other question.

I wish to refer to this discourse of Brother George Q. Cannon, on page 486 of this record, from which something was read yesterday. I heard what you said about this, Doctor, and I have read this morning the report of it, and I am not quite sure about your position in regard to it, and I would therefore like to have it so that there will be no doubt about it.

You said, after this had been read, in the first place, as I recollect, that you agreed with the remarks. Later you expressed some dissent, as I remember it, from some part of it, and I should like to know exactly what your position about it is, and what you understand to be the position of the church. He says:

"All truth has not been revealed. Paul said once he knew a man who had ascended into the third heaven, and he had heard things that were not lawful for man to utter."

Mr. TALMAGE. I agree with that.

Mr. WORTHINGTON (reading): "That has been a good deal the case with us. Many things have been revealed to us, which, if we had taught, men would have sought to kill us, so entirely opposed would they have been to the prevailing religious sentiment."

Now do you mean to say that you concur in that, or that you do not?

Mr. TALMAGE. That is a statement made by George Q. Cannon. I do not know what he had in mind, or what had been revealed to him. Nothing had been revealed to us as a church that had not been made known, for of necessity it would not be known to the church.

Mr. WORTHINGTON. Have you in mind anything which you know had been revealed to the church, but which could not be taught because if taught your people would be killed?

Mr. TALMAGE. No, sir. I will add, if I may be allowed, that when that was read yesterday by counsel—I assume that it was read in connection with the other, though I did not hear it—I did not pay any attention to that part of it.

Mr. WORTHINGTON. He goes on.

"This has been the case even with the small amount of truth which we have taught. We dare not tell all the truth we know, because it would not be lawful to utter some things that God has revealed."

Mr. TALMAGE. I do not know to whom George Q. Cannon is referring by the pronoun "we." If it means himself, I can not explain what it meant. If it means the church, I say he was mistaken, because

the church knows what has been revealed to it as a church, such having been openly presented and acted upon.

Mr. WORTHINGTON. I simply wanted to go back and see if you wished to qualify what you and some other witnesses have said, that if any officer of the church, however high, should receive a revelation, it would not in anywise affect the church or the members thereof unless it was submitted to the people openly and adopted and accepted by them.

Mr. TALMAGE. In no sense; and while as a general principle we believe that any officer of the church and any and every individual is entitled to revelations, in the sense of being entitled to the spirit of enlightenment that shall explain and reveal in that sense the truth, there is but one man upon the earth at one time through whom revelations can come to the church direct.

Mr. WORTHINGTON. Who is, the president?

Mr. TALMAGE. He is the president of the church; and when it comes through him it has to be presented to the church before it becomes binding upon the members, or any of them as a law.

Mr. WORTHINGTON. Let me ask you a plain question here, which arises out of my judgment as to the use which may be made of that passage in argument, and especially as to whether in any such sense you meant to say you could approve it. That is, he may have meant that notwithstanding the manifesto, the heads of the church had a private understanding with the Almighty that they were to keep on with polygamy, although they did not dare to let it be known, because they would be killed for it.

Mr. TALMAGE. I think their fellow-religionists would be aroused to a state of rebellion by any such statement or declaration or implication.

Mr. TAYLER. Do you understand that Joseph F. Smith stated this in a sermon in Salt Lake Tabernacle, reported in the Deseret News of December 6, 1900—

The CHAIRMAN. From what page do you propose to read?

Mr. TAYLER. From page 2 of the protest.

Mr. WORTHINGTON. May I interrupt you to remind you that there has been a comparison made of these extracts, and errors have been found in some of them, in most of them, I believe; and the extracts have been put in since, I believe, in their corrected form.

Mr. TAYLER. There is no error in this.

Mr. WORTHINGTON. I do not know, but I believe in almost every one of them errors were found.

Mr. TAYLER (reading). "The question with me is * * * when I get the word of the Lord as to who is the right man (to vote for) will I obey it, no matter whether it does come contrary to my convictions."

Mr. TALMAGE. What is your question?

Mr. TAYLER. Whether you understand President Joseph F. Smith made that statement.

Mr. TALMAGE. I do not know whether he did or not.

Mr. TAYLER. What do you understand it to mean?

Mr. TALMAGE. What it says.

Mr. TAYLER. What it says? That is what I supposed. And Apostle Brigham Young, jr., in a sermon in Logan Tabernacle, 1901—this certainly did not occur in 1901—

Mr. VAN COTT. Mr. Tayler, right there to make it clear, are the

word "to vote for" a part of the quotation? Or are they put in parenthesis to indicate that some one else has inserted them to indicate what Mr. Smith meant?

Mr. WORTHINGTON. I was about to call attention to that. It was only when we looked at the article in the Deseret News that we found that the words "to vote for" were not there, and that they had been inserted in the protest by somebody else.

Mr. TAYLER. You do not think they are misleading?

Mr. WORTHINGTON. Yes; I should say absolutely misleading and intentionally misleading, if you ask my judgment about it.

Mr. TAYLER. What?

Mr. WORTHINGTON. And intentionally misleading. Of course I do not cast any reflection on the counsel or the protestants. I do not know who got up the garbled passage.

Mr. TAYLER. We will send for the Deseret News. I will see if it is unfair. I have nobody to protect in this business. I meant to modulate my voice, though it did not appear so, when I read those words. I felt that that was what it was in brackets for. However, the witness is not concluded by anything I asked him. He said he did not know whether Mr. Smith said it or not, and that if he did say it, it was perfectly apparent what he meant.

Mr. TALMAGE. I did not say it was perfectly apparent what he meant. I said I knew nothing about his having said it or not having said it, and when you asked me what it meant, I said I inferred it meant what it said. I do not know whether the sentence is clear or obscure. I pass no judgment upon it. If you want me to interpret it, kindly hand me the printed page, so that I may read it for myself.

Mr. TAYLER. Was this covered in the matter that was put in during the recess?

Mr. WORTHINGTON. I am trying to find it. The extracts are not arranged in the same order here that they are there.

The CHAIRMAN. What is it?

Mr. WORTHINGTON. This passage in the protest attributing a certain statement to President Smith.

The CHAIRMAN. What are you looking for?

Mr. WORTHINGTON. The chairman will remember that when the protestants concluded their case, it was agreed that comparisons should be made of these papers and instruments which are set forth in the protest to see if they were correct, and then they were offered anew in their revised form. That has been done. It has been found that that is not a correct quotation from the Deseret News. The words "to vote for" have been interpolated in parentheses.

The CHAIRMAN. Proceed with the witness.

Mr. TAYLER. That is all I want to ask him now. I have sent for the Deseret News.

The CHAIRMAN. I remember very well that when the protest was received those words were in the protest and were in parentheses.

Mr. WORTHINGTON. Of course, Mr. Chairman, I was not stating that the protest had been altered since it was prepared and signed, but somebody in preparing the material for that protest interpolated those words.

The CHAIRMAN. Mr. Talmage, you have taken the endowments?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Were you married in the Endowment House?

Mr. TALMAGE. I was married in the temple at Manti.

The CHAIRMAN. Not in the endowment house at Salt Lake City. There was an old endowment house there. At the time you took the endowments, did others take the endowments at the same time?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. How many?

Mr. TALMAGE. Oh, I can not remember. There was a company of possibly somewhere between twenty and fifty.

The CHAIRMAN. Who performed the ceremony?

Mr. TALMAGE. There were many officiating in the ceremony.

The CHAIRMAN. Name some of them.

Mr. TALMAGE. I do not think I can name more than one. I remember that——

The CHAIRMAN. Name that one.

Mr. TALMAGE. I remember that Daniel H. Wells took part in that ceremony.

The CHAIRMAN. Anybody else?

Mr. TALMAGE. Yes.

The CHAIRMAN. But you can not remember the name of the others?

Mr. TALMAGE. I do not remember another one by name.

The CHAIRMAN. That was in 1882?

Mr. TALMAGE. That was in 1882. I may——

The CHAIRMAN. But will you give the ceremony?

Mr. TALMAGE. I desire to add this, if the chairman will permit.

I think Joseph F. Smith, while taking no part in the ceremony proper, was present and gave some address or lecture on——

The CHAIRMAN. I am not asking what he did.

Mr. TALMAGE. On Christian duties, and so on.

The CHAIRMAN. He was there. Do you think of anybody else who took part in the ceremonies?

Mr. TALMAGE. No, sir.

The CHAIRMAN. How long did the ceremony last?

Mr. TALMAGE. Three or four hours, all told.

The CHAIRMAN. Will you state what the ceremony was?

Mr. TALMAGE. No, sir; I could not do that.

The CHAIRMAN. Why not?

Mr. TALMAGE. For one reason, my remembrance of the details of the ceremony is not sufficiently strong to warrant me in saying that I could do it. And, moreover, I consider those ceremonies sacred, and would not wish to give any part of them.

The CHAIRMAN. Are you under any obligation not to reveal it?

Mr. TALMAGE. I consider myself under obligation not to reveal them.

The CHAIRMAN. Is there anything in that ceremony about a penalty in case you did reveal it?

Mr. TALMAGE. No, sir; no penalty was prescribed for me.

The CHAIRMAN. I am not asking you about yourself or what was prescribed for you, but I am asking whether in that ceremony there was any penalty to follow a disclosure of what occurred.

Mr. TALMAGE. No, sir.

The CHAIRMAN. No infliction of any bodily harm?

Mr. TALMAGE. None such penalty or any other kind of penalty was prescribed in any ceremony in which I took part, as following the divulging of that ceremony or of anything else.

The CHAIRMAN. Or of any portion of it?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. That obligation, however, is of such a character that you do not feel at liberty to disclose it?

Mr. TALMAGE. Very true. To me it is a sacred obligation.

The CHAIRMAN. You regard that obligation, of course, as binding upon your conscience?

Mr. TALMAGE. I do.

The CHAIRMAN. Could you state whether there was any change in apparel in the ceremony?

Mr. TALMAGE. I prefer to state nothing in regard to the ceremony, Mr. Chairman.

The CHAIRMAN. For the reason you have already given?

Mr. TALMAGE. For the reasons I have given.

The CHAIRMAN. You were married in the temple. Was this the marriage ceremony?

"You both mutually agree to be each other's companion, husband and wife, observing the legal rights belonging to this condition; that is, keeping yourselves wholly for each other and from all others during your life."

I simply want to refresh your recollection. Was that the ceremony?

Mr. TALMAGE. I do not recognize it as such. I recognize it, however, as expressing sentiments that are conveyed practically in all marriage ceremonies.

The CHAIRMAN. I am asking you if you remember whether that was the ceremony, so far as you are concerned?

Mr. TALMAGE. No, sir.

The CHAIRMAN. You do not care to disclose anything in regard to the endowments?

Mr. TALMAGE. No, sir.

The CHAIRMAN. Are you personally acquainted with the apostles?

Mr. TALMAGE. With many of them; yes, sir.

The CHAIRMAN. Do you know Mr. F. M. Lyman?

Mr. TALMAGE. I do.

The CHAIRMAN. And John Henry Smith?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. George Teasdale?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Heber J. Grant?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. John W. Taylor?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. And Mr. Clawson, and Mathias F. Cowley?

Mr. TALMAGE. Yes, sir; all of them.

The CHAIRMAN. Do you know where George Teasdale is?

Mr. TALMAGE. No, sir; I have not seen him for a year or more.

The CHAIRMAN. Where is Apostle Grant?

Mr. TALMAGE. I do not know positively, but he is reputed to be in Europe.

The CHAIRMAN. Can you state how many of these apostles are in foreign countries at the present time?

Mr. TALMAGE. I do not know, sir. I do not follow their movements. They are traveling.

The CHAIRMAN. By repute, what is your understanding as to which

one, or ones of them, are in foreign countries? You have mentioned Grant.

Mr. TALMAGE. I understand Mr. Grant to be in Europe.

The CHAIRMAN. By repute—what others?

Mr. TALMAGE. I know of no other. I have heard through the papers that Mr. Cowley, Mr. Taylor—

The CHAIRMAN. Which Mr. Taylor—John W?

Mr. TALMAGE. John W. I know of no other Taylor in the quorum of apostles. Some say they are in Canada, some say in Mexico, some say in Cuba, and some say in the Philippines.

The CHAIRMAN. But they are understood to be absent from this country?

Mr. TALMAGE. I have heard that report, and I have heard also that they are not absent from Utah, and I do not know anything about it.

The CHAIRMAN. Do you know of any other apostles who are now absent from this country? [A pause.] I ask you if by repute you know whether any others are said to be in a foreign country.

Mr. TALMAGE. I do not know of any others, though I have read through the evidence brought out in this inquiry that George Teasdale is supposed to be in Mexico or Canada, or somewhere else outside the United States.

The CHAIRMAN. Outside the United States?

Mr. TALMAGE. Yes, sir; but I know nothing about it.

The CHAIRMAN. Do you know what Apostle Grant is doing in Europe?

Mr. TALMAGE. I do not know absolutely, but I understand that he is presiding as the chief officer in the European mission of the Church of Jesus Christ of Latter-Day Saints.

The CHAIRMAN. When did he go there the last time?

Mr. TALMAGE. I do not know; over a year ago.

The CHAIRMAN. Over a year ago?

Mr. TALMAGE. I think so. I am not sure.

The CHAIRMAN. Is he a polygamist?

Mr. TALMAGE. By repute he is a polygamist, and my belief is that he is such.

The CHAIRMAN. He has charge of that mission in Europe. Whereabouts in Europe?

Mr. TALMAGE. All over Europe the mission extends; headquarters in Great Britain; chief office in Liverpool.

The CHAIRMAN. Has he charge of the European mission?

Mr. TALMAGE. I so understand, but do not know.

The CHAIRMAN. What is Apostle Taylor in charge of?

Mr. TALMAGE. I do not know that he is in charge of anything. I know nothing about his present appointment or whereabouts.

The CHAIRMAN. Nor of Teasdale or Cowley?

Mr. TALMAGE. I have to make the same answer, with this modification, that by repute Mr. Teasdale is ill and is traveling for his health; I do not know where.

The CHAIRMAN. You do not know where he is, then?

Mr. TALMAGE. No, sir.

The CHAIRMAN. Do you know whether Apostle Grant is abroad by direction and authority of the church?

Mr. TALMAGE. If he is holding the official position which by repute he does hold, he is certainly acting by appointment of the church.

The CHAIRMAN. You do not know when that designation was made?

Mr. TALMAGE. No, sir.

The CHAIRMAN. But he was appointed by the church for that very important position?

Mr. TALMAGE. If he is holding it. I do not know that he is holding it, even. I have simply given rumor.

The CHAIRMAN. What is your judgment about it, based upon rumors, if you please?

Mr. TALMAGE. Oh, I would infer that that is probably true.

The CHAIRMAN. You have no doubt about it?

Mr. TALMAGE. I have no reason to doubt it, but if I was called upon to declare it under oath, I would want time to investigate.

The CHAIRMAN. We understand that.

How are these apostles sent into the foreign missions? By whom?

Mr. TALMAGE. The details of appointment among and by the quorum of the twelve apostles I can not give, for I do not know. I have never been present at one of their meetings.

The CHAIRMAN. You do not know by what authority they are sent into these foreign fields?

Mr. TALMAGE. I know nothing about the details of the appointment, but of course the appointee acts by the authority of the quorum of the apostles and the first presidency, who direct them.

The CHAIRMAN. The apostles, who are missionaries, do not go on their own motion where they please and when they please and come back when they please, but they are under the guidance of some authority?

Mr. TALMAGE. As I say, I can not tell in detail. My understanding is that any member of the quorum of the twelve in their meetings—

The CHAIRMAN. I think you misunderstand me. I want to know whether these twelve apostles who occupy, as you have stated, the missionary fields, are sent to the field of labor by some authority in the church, or whether they go of their own accord wherever they think work is to be done.

Mr. TALMAGE. That is the very question I was starting to answer, and if the reporter will read the part I have already given I will try to make it complete.

The reporter read as follows:

“Mr. TALMAGE. As I say, I can not tell in detail. My understanding is that any member of the quorum of the twelve in their meetings—”

Mr. TALMAGE. My understanding is that any member of the quorum of the twelve in their meetings may, on his own motion, nominate himself for a foreign mission, and may, on his own initiative and in one sense on his own motion, send a proposition to the quorum of the twelve in their regular meetings to be released. But I take it that the vote of the quorum of the twelve would be essential to the authorization of his mission.

The CHAIRMAN. Now that answers my question. The vote of the quorum of the twelve. And he is relieved from that mission by the same authority?

Mr. TALMAGE. I would so infer.

The CHAIRMAN. Do you know, by reputation, whether before his departure a warrant had been issued for Heber J. Grant for a crime?

Mr. TALMAGE. I read some newspaper item about it, but nothing more than that do I know.

The CHAIRMAN. Is that the common repute?

Mr. TALMAGE. I have not encountered that rumor many times, and do not believe it is common repute. It may nevertheless be true that a warrant was issued.

The CHAIRMAN. What is your opinion about it?

Mr. TALMAGE. I have never framed an opinion, but from the fact that the statement has been made many times, I would rather be inclined to think a warrant had been issued.

The CHAIRMAN. Did you ever know it to be denied?

Mr. TALMAGE. No; I do not know who was in a position to deny it, except the officers who were said to have issued the warrant, and I am not aware that they have denied it.

The CHAIRMAN. Since Apostle Grant was sent on this European mission, has he been back in this country?

Mr. TALMAGE. Not to my knowledge.

The CHAIRMAN. He has not been recalled?

Mr. TALMAGE. So far as I know, no.

Senator OVERMAN. Where does the fund arising from the tithes paid by the Mormons in Mexico and other countries go; is it sent to the main treasury in Salt Lake City, or do they have places in those countries where the tithes are deposited?

Mr. TALMAGE. I have little knowledge on the subject, but my understanding, if you desire me to state it—

Senator OVERMAN. Yes.

Mr. TALMAGE. Is that the tithes and offerings in the several branches of the church are used within those branches for the carrying on of the work of the church. I am not aware of any of it being sent to the headquarters of the church. Such may be done. I can not tell.

Senator OVERMAN. I was asking for information.

The CHAIRMAN. Doctor, one other question. I understood you to say that you had some connection with the Sabbath school work of the world.

Mr. TALMAGE. I am a member of the general board.

The CHAIRMAN. Who is conducting that work in Europe?

Mr. TALMAGE. As a rule there are no officers attending especially to the Sunday school work outside the organized wards and stakes of the church. The missionaries lend what assistance they can in a general way.

The CHAIRMAN. Then that work is in charge of Heber J. Grant—the general supervision of it, I mean?

Mr. TALMAGE. It would be in a general way, not specifically so. While the Sunday school organization does not undertake to keep officers in the outlying branches and in foreign lands, the Sunday school board as such does try to keep in touch with the missionaries who are doing that kind of work.

The CHAIRMAN. You say there is in your organization the practice of sustaining men in authority?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. How is that done?

Mr. TALMAGE. That is a matter of voting simply.

The CHAIRMAN. Is a motion made that Brother So-and-so or the apostles or the president be sustained, and is that motion put?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. How often do you have a general conference?

Mr. TALMAGE. Every six months.

The CHAIRMAN. When was your last general conference?

Mr. TALMAGE. October 6 last.

The CHAIRMAN. Was the president of the church sustained at that time?

Mr. TALMAGE. He was.

The CHAIRMAN. By the conference?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Were you present?

Mr. TALMAGE. I was in some of the meetings, not all.

The CHAIRMAN. Were you present when he was sustained?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Was that after he had testified here that he violated the law of the land and the law of God, and would continue to do so?

Mr. TALMAGE. It was after the time at which he gave testimony here, if I remember correctly.

The CHAIRMAN. He was sustained without any opposition?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Were any hands raised against him?

Mr. TALMAGE. I saw none. There may have been some scattering votes, but I think if there had been they would have been announced by the one who presented the motion.

The CHAIRMAN. Do you know of any one in any of these conferences who is reputed to be a polygamist or living in polygamous cohabitation who has not been sustained?

Mr. TALMAGE. I presume the chairman means do I know of any who were presented for a vote.

The CHAIRMAN. Yes, of course?

Mr. TALMAGE. No, sir; I know of none.

The CHAIRMAN. I do not see how you could sustain somebody who was not up to be sustained.

The CHAIRMAN. I have been looking in the Book of Covenants for the manifesto of 1890. I do not find it. I refer to the manifesto of 1890, which modified the ceremony of celestial or plural marriage. Can you tell me where I can find it?

Mr. TALMAGE. I do not desire to intentionally misunderstand. I know of no modification in the ceremony of celestial marriage, by the manifesto of 1890.

The CHAIRMAN. I may not have been clear, perhaps, about it. I want to know where in the Book of Doctrine and Covenants I can find the manifesto of 1890?

Mr. TALMAGE. As the chairman properly says, he can not find it, because it is not there.

The CHAIRMAN. Oh, it is not there?

Mr. TALMAGE. No, sir. There has been no edition of the Doctrine and Covenants published since that time.

Mr. TAYLER. Since when?

Mr. TALMAGE. Since 1890.

The CHAIRMAN. Since 1890? Fifteen years ago? Then the Book of Doctrine and Covenants used by the missionaries does not have the revelation of 1890, modifying the subject of polygamy?

Mr. TALMAGE. The manifesto is not published in the Book of Doctrine and Covenants; no, sir.

The CHAIRMAN. Do you know when it is going to be?

Mr. TALMAGE. I do not. I do not know when a new edition, in the

proper sense of the term, will be issued, or if the manifesto will be incorporated then.

The CHAIRMAN. It would naturally be incorporated, would it not, having been inspired?

Mr. TALMAGE. I would so infer.

The CHAIRMAN. What do you infer from the fact that it has not been incorporated for fifteen years, and that the old book of Doctrine and Covenants is used?

Mr. TALMAGE. There has been no new edition, so far as I know, and I have made special inquiry because of a personal criticism I have offered on the footnotes of the current edition.

The CHAIRMAN. Do you know Senator Smoot?

Mr. TALMAGE. Yes, sir.

The CHAIRMAN. Do you know whether he was present at the last general conference in October?

Mr. TALMAGE. I do not know.

The CHAIRMAN. You have no knowledge upon that subject?

Mr. TALMAGE. No, sir.

The CHAIRMAN. That is all.

Mr. TAYLER. Would you be surprised, Doctor, to know that many editions of the Doctrine and Covenants have been issued since 1890?

Mr. TALMAGE. Very much.

Mr. TAYLER. You say that there have not been any; so you know. You have stated that without any qualification whatever.

Mr. TALMAGE. I know it as well as one may know it from making an inquiry regarding the subject. I know the title page of the Doctrine and Covenants is practically changed every year in accordance with the habits some publishers have. I know furthermore that the pages of the Doctrine and Covenants are electrotyped, and they are not reset at all, and that the pages have been printed and the books bound up and sold; but I think the date on the title page is changed. I have one in my hand, for instance, which bears at the bottom of the title page the date "1903," but if you will compare it with the copies current in 1888, I have no doubt you will find the blurred letters even to correspond.

Mr. TAYLER. Precisely. But you do not mean that the edition of 1903 was published in 1888?

Mr. TALMAGE. It was either printed at that time or had been printed later from the same plates.

Mr. TAYLER. You know what the word "published" means?

Mr. TALMAGE. Yes, sir; and also what the term "edition" means. An edition does not mean extra copies printed from the same plate. These are not to be considered as a new edition.

Mr. TAYLER. You say they were not printed afterwards even.

Mr. TALMAGE. I do not know.

Mr. TAYLER. You do not know. You said you knew there had been no new editions.

Mr. TALMAGE. And I have explained—

Mr. TAYLER. Have not these books been bound and possibly printed since?

Mr. TALMAGE. And I have explained what I meant by the term "edition." I am not in the printing business there at all. I do not know; but I have made inquiries as to when a new edition of the Doctrine and Covenants would be issued, as I ventured to offer some little

criticism on the footnotes that have been inserted in some cases, and have notified the first presidency that I should like to offer some suggestions, at least, before a new edition is published.

Mr. TAYLER. The fact is that the Doctrine and Covenants has been issued to the world from year to year with a new title page every time it was reissued, with the old revelation respecting plural marriage and without the addition of the manifesto of 1890. Is that right?

Mr. TALMAGE. I do not know what counsel means by a new title page every time it is reissued. I do not know of any reissuing or——

Mr. TAYLER. Do not let us talk about trifles. Answer the question fairly if you can, Doctor. You say you have a copy there dated "1903" on the title page, have you?

Mr. TALMAGE. Yes, Sir.

Mr. TAYLER. I hold in my hand one dated 1901. Now, without paying too much attention to that trifle, will you answer the question?

Mr. TALMAGE. Now, let the reporter please read the part of the answer I have given. I do not remember where I was.

The reporter read as follows:

"Mr. TALMAGE. I do not know what counsel means by a new title page every time it is reissued. I do not know of any reissuing or"——

Mr. TALMAGE. Or issuing of any new edition. The alteration on the title page, as I take it, is simply the alteration of the year, and whether that be justified or not I do not say; but I have no knowledge of any new edition of the Doctrine and Covenants as such having been published.

Mr. TAYLER. I do not use the word "edition." Answer the question if you can.

Mr. TALMAGE. What word did you use?

Mr. TAYLER. "Reissue."

Mr. TALMAGE. Define what you mean by "reissue?"

Mr. TAYLER. No, I will not define it.

Mr. TALMAGE. Then I can not answer it.

Mr. TAYLER. That is all. It takes too long.

Mr. WORTHINGTON. If we are through with the examination, let us defer the speeches. [To the witness.] Unless I misapprehended you, there was some discrepancy between what you said in answer to two questions of Mr. Tayler on the same subject, or of the chairman. I understood you to say, in reference to the apostles being sent out over the world on their missions, that it was the action of the quorum of the apostles and of the presidency; and afterwards I understood you to say it was the action of the quorum alone. Did I understand you?

Mr. TALMAGE. I think not, but perhaps I failed to make my meaning quite clear.

The first remark as to the part the presidency would take in the matter was intended to apply in a general way to all subsequent remarks—that is to say, as I testified yesterday, the first presidency direct the twelve apostles in their labors, and if a motion had been properly put and had prevailed in a meeting of the quorum of the twelve, that such and such a one of their number should be sent to England or elsewhere, I take it that would have to be submitted to the first presidency for ratification.

Mr. WORTHINGTON. Now, there is another question which I wished to ask you this morning, but I overlooked it. There have been references to two works by Andrew Jenson, who was a witness here. One

is the Church Chronology, and the name of the other I have forgotten. Perhaps you remember it, if you have read his testimony.

Mr. TALMAGE. Yes. References have been made, also, to the Latter-Day Saints' Biography, I think it is.

Mr. WORTHINGTON. What can you tell us as to whether those are accepted as correct works?

Mr. TALMAGE. The works by Andrew Jenson?

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. They are in no sense authoritative as works by which the church can be bound; and, moreover, they are publications by Mr. Jenson put out partly as a commercial enterprise, as I understand.

Mr. WORTHINGTON. Do you know as a matter of fact whether or not they have been found to be correct and whether the church accepts the statements made in them as true?

Mr. TALMAGE. I had occasion to consult the Church Chronology soon after its first appearance, and I found two or three errors in it, and since then I have not consulted it further. It is not regarded as an authoritative work, and certainly not as a work by which the church or its members could be bound.

Mr. WORTHINGTON. That is all.

Thereupon (at 12 o'clock meridian) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Gentlemen, who is your next witness?

Mr. WORTHINGTON. Major Young. I wish to recall Major Young for a moment.

The CHAIRMAN. Major, will you take the stand?

TESTIMONY OF RICHARD W. YOUNG—Resumed.

RICHARD W. YOUNG, having been previously sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Major, you were examined at great length about the practice and theory of the church. There is one thing that has come up since you left the stand about which I wish to ask you. That is as to whether, since the manifesto, according to the doctrine of your church, it is possible for any official to perform or celebrate a plural marriage which is of any efficacy, even according to the law of the church?

Mr. YOUNG. I believe that he could not.

Mr. WORTHINGTON. Why?

Mr. YOUNG. Simply because the practice of plural marriages had been formally discontinued by the church.

Mr. WORTHINGTON. By the—

Mr. YOUNG. By the action of the church in conference assembled.

Mr. WORTHINGTON. In general conference assembled. And the authority to perform a plural marriage could only be restored in the same way?

Mr. YOUNG. That is my judgment.

Mr. WORTHINGTON. Now, there has been some evidence here about the alleged appointment, on behalf of the church, in the winter of

1896 or 1897, I think, of what is called the "steering committee," to attend the legislature of Utah. Have you any information that you can give us in regard to that?

MR. YOUNG. I have no personal knowledge of the subject further than—

MR. WORTHINGTON. Can you give the consensus?

MR. YOUNG. Further than such as I obtained from the newspapers.

MR. WORTHINGTON. And the general consensus of opinion, as we call it—oh, you were the manager, I believe, of a newspaper?

MR. YOUNG. I was at the time managing the Salt Lake Herald. I find, in looking over the files of the Salt Lake Herald, that that matter was discussed in the issues of the daily of April 13, 14, 16, and 18 of the year 1896.

MR. WORTHINGTON. What month—April?

MR. YOUNG. April; yes.

MR. WORTHINGTON. That was the winter of 1895 and 1896, then, and not the winter of 1896 and 1897?

MR. YOUNG. It was the legislature that met in the early part of 1896.

MR. WORTHINGTON. Have you the articles here?

MR. YOUNG. They were sent for, but I believe have not yet come over from the Congressional Library.

MR. WORTHINGTON. When they do arrive, we will ask to have the witness indicate the articles to which he refers, and insert them in the record, Mr. Tayler, as a part of the public history of the times.

[These articles will appear later.]

I want to ask you, also, another question that came up in the examination of Doctor Talmage—and perhaps I might ask you this because it appears that you are not only well advised in the matters relating to church practices and theology, but also you are a lawyer—as to what your understanding is of the power of the presidency and apostles, or of anybody else in the church, after such an instrument as the manifesto had been submitted to and accepted by the body of your people in general conference assembled to enlarge it and to put something else into it that was not in it when they voted on it?

MR. YOUNG. I should think they could not do so and bind the church.

MR. WORTHINGTON. The people who go there and vote at the general conference vote upon the document, whatever it is, that is presented to them, and as presented to them?

MR. YOUNG. Undoubtedly.

MR. WORTHINGTON. I think that is all, Mr. Tayler.

THE CHAIRMAN. Mr. Tayler, have you any questions?

MR. TAYLER. In the case, Mr. Young, of an apostle who took a plural wife—assuming that—since the manifesto, then according to the practical treatment accorded that marriage by the people and authorities of the church, it would not be deemed a marriage at all?

MR. YOUNG. Well, I believe, Mr. Tayler, that I said nothing about practical treatment.

MR. TAYLER. That is what I am asking you now, and if that was not in it, what would be your answer to that—putting it that way?

MR. YOUNG. I wish you would reframe the question.

MR. TAYLER. Read it, Mr. Reporter, and I will see.

The reporter read as follows:

"Mr. TAYLER. In the case, Mr. Young, of an apostle who took a plural wife—assuming that—since the manifesto, then according to the practical treatment accorded that marriage by the people and authorities of the church, it would not be deemed a marriage at all?"

Mr. YOUNG. It would not be deemed a marriage, or should not be deemed a marriage, in my judgment, even under the laws of the church.

Mr. TAYLER. Well, would it be practically treated as a marriage?

Mr. YOUNG. I should say that if the question came up for determination there could be but one conclusion and one practical treatment of it, namely, that the marriage was opposed to the existing law of the church.

Mr. TAYLER. Would it be considered, and the parties treated in accordance with that opinion, as an unchaste union?

Mr. YOUNG. I think that it would be so considered.

Mr. TAYLER. And the persons who entered into that relation would be treated just as any other persons who, as we understood it in ordinary life, enter into that relation without the spirit of chastity?

Mr. YOUNG. I had not really concluded my previous answer, Mr. Tayler.

Mr. TAYLER. Excuse me.

Mr. YOUNG. I was going to say that in my judgment it would be considered as a marriage opposed to the rule and law of the church, and therefore invalid under the laws of the church. The treatment that it might receive I could only speculate about.

Mr. TAYLER. Yes.

Mr. YOUNG. As to whether it would be regarded as unchaste or not, I would be quite willing to adopt the explanation made by Doctor Talmage yesterday, to the effect that that matter would have to be determined by all the surrounding circumstances in the case. It would be so considered as a legal deduction, by the majority of the church, assuming that the parties knew precisely what they were doing and accepted the same construction of the manifesto that I accept; but circumstances alter cases.

Mr. TAYLER. I understand. Of course I am now dealing with the practical state of the mind of the Mormon people, what it would be touching that relation thus entered into. Is your answer the same?

Mr. YOUNG. It is the same; yes, sir.

Mr. TAYLER. Do you think that the woman who enters that relation—

Mr. WORTHINGTON. Since the manifesto?

Mr. TAYLER. Oh, of course; that particular one that I have described—would be ostracised by good Mormons?

Mr. YOUNG. I scarcely know.

Mr. TAYLER. You agree, do you not, with Doctor Talmage and with others, that one of the chief characteristics of the Mormon Church, and one of your boasts, has been that chastity—not in a pharisaical sense at all—is one of the chief virtues peculiar to your people?

Mr. YOUNG. I do fully.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. Now, Major, since the manifesto, has there come to your knowledge any instance where, in the community in which you resided, there was a woman living who was known to have become a plural wife since the manifesto?

Mr. YOUNG. No, sir. I will state, as I stated the other day, that I never heard of any such case until a year or a year and a half ago; and those cases that I have heard of since then, so far as I am concerned, rest upon rumor.

Mr. WORTHINGTON. Let me suppose this case, to see whether I understand what you have said in answer to Mr. Tayler's questions. Suppose that when you should go back to your home, you should find that while you were away some young girl who had mingled with you and your family, had become the plural wife of a member of the church, and was living with him in that relation. Would you allow her to be introduced to your family and treat her the same as you would if she were married to the man as his first and legal wife?

Mr. YOUNG. Oh, I could not just say. It would depend upon what her previous relationship may have been. It would also depend upon the extent and state of my knowledge of her. I believe that the world everywhere exercises a good deal of charity in those things. I would not like to say, Mr. Worthington, just what I might do. We wink at a great many things—speaking now of mankind generally—that we know to be wrong. We pass by ulcers—

Mr. WORTHINGTON. I know that, but I did not suppose that in our community, or in any part of the United States, anyone who is an open, acknowledged adulteress, is brought into respectable families and admitted as such, and I wondered if it was different in your neighborhood.

Mr. YOUNG. No; it is not different there. Possibly my hesitation and uncertainty in answering that and Mr. Tayler's question depends upon the fact that I might think there were extenuating circumstances.

Mr. WORTHINGTON. That is what I supposed. Now, if the case were one in which the young woman had been led to believe, and did really believe that she could be legally married according to the law of the church, then you would take a different view of it, would you?

Mr. YOUNG. Entirely, and I think everybody else would, too.

Mr. WORTHINGTON. Then if she knew what you say you know and understand, that the ceremony performed by a priest of your church would be of no legal efficacy, and notwithstanding that fact she had entered into that relation with the man, knowing that she was not married to him either by the law of the land or the law of the church, would you have her associate with your household?

Mr. YOUNG. I would not. I will state this, Mr. Worthington, to state my mind on the subject: If a woman and a man, construing the manifesto as construe it—namely, that it prohibits new polygamous marriages—had, to my conviction, entered into that relationship, I would consider them as living in an adulterous relation.

Mr. WORTHINGTON. And you would ostracise them, so far as you were concerned, would you not?

Mr. YOUNG. Yes, sir; that is correct.

Mr. WORTHINGTON. Do you not believe that your neighbors in the church would do the same, under the same circumstances?

Mr. YOUNG. I believe so.

Mr. WORTHINGTON. Now, let me pursue that question a word further, and suppose that this young woman was misled in this way by some apostle, and you knew it. What would be your feeling toward him?

Mr. YOUNG. I could have only one feeling, and that would be of *disapprobation* and *disapproval*.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Now, while the Colonel is on the stand I wish to call attention to what we had up here before. I want to ask you if this expresses the general view, Major, of the Mormons as you understand their view—

Mr. WORTHINGTON. May I ask what you are reading from?

Mr. TAYLER. Yes, I will put it in my question, so that it will be in the record.

I find in the issue of the Deseret Evening News of Saturday, December 1, 1900, an article entitled "Temple work and law of tithing—Discourse delivered at the general conference of the Church of Jesus Christ of Latter-Day Saints, in the tabernacle, Salt Lake City, Sunday morning, October 7, 1900, by President Joseph F. Smith—Our labors"—

Continuing the heading—

"Our labors relate to temporal as well as spiritual things—temple work—laws and ordinances administered now the same as administered in the days of the Prophet Joseph Smith—law of tithing—necessity for greater union—home industries."

First, I will ask this question before you answer the other. The meeting in the tabernacle on October 7, 1900, would be the Sunday during the general conference of the people, would it not?

Mr. YOUNG. I believe so; yes, sir. Following the usual rule it would be.

Mr. TAYLER. Which is what?

Mr. YOUNG. The conference usually includes the Sabbath day nearest to the 6th day of October.

Mr. TAYLER. And this was the Sabbath day—

Mr. YOUNG. Immediately following the 6th.

Mr. TAYLER. In the semiannual conference of the church?

Mr. YOUNG. I have no doubt of that.

Mr. TAYLER. I will read put a part of this first paragraph. It is as follows:

"I am requested to occupy the few minutes that remain of this forenoon meeting. I most earnestly indorse all the subjects that have been dwelt upon by the apostles during our conference, and I sincerely hope that these important matters will find an abiding place in the memory of the people. We are engaged in a temporal as well as in a spiritual labor. You must continue to bear in mind that the temporal and the spiritual are blended. They are not separate. One can not be carried on without the other, so long as we are here in mortality. The Church of Jesus Christ of Later-Day Saints on the earth is a physical organization as well as a spiritual organization. We need practical faith; that is, we need to practice the principles of our faith. Without the practice of the principles of the Gospel we can never realize our hopes and expectations concerning the results of this great latter-day work."

I stop there because it is the end of the paragraph. Does that interpret correctly the views of your people?

Mr. YOUNG. It does. Of course it is very general. It does not stop to explain the entire subject.

Mr. TAYLER. I understand.

Mr. YOUNG. But that is the general proposition.

Mr. TAYLER. Now, after a paragraph concerning temple work and the law of tithing—and I think this article had better be printed in

full in order that no injustice may be done to anybody—I come to this: “We ask you also to be united, to be one. The brethren have said a good deal during this conference about oneness. I believe in union. I believe that, except we are one in those things which pertain to the building up of Zion, we are not God’s children. But I want to say to you that we are not one. There is not that union amongst us that should exist, sometimes when President Snow tells a brother what he would like him to do, he at once turns on his heel and says that comes in contact with his manhood and his independence, and he prefers to follow the bent of his own mind rather than to take such counsel. In that respect we are not always one. And I want to say that this lack of oneness is not confined to the people. It reaches into the higher ranks of the priesthood, if I have any power to discern spirits.

“Let me read what the Lord says:

“‘And now, verily, verily I say unto you concerning the laws of the land, it is my will that my people should observe to do all things whatsoever I command them.’

“This is the first point. It is the hub of the wheel”—

Says Mr. Smith. And continuing the quotation—that is his quotation—

“‘And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me;

“‘Therefore, I, the Lord, justify you, and your brethren, of my church, in befriending that law which is the constitutional law of the land;

“‘And as pertaining to the law of man, whatsoever is more or less than these, cometh of evil.

“‘I, the Lord God, make you free, therefore you are free indeed; and the law also maketh you free;

“‘Nevertheless, when the wicked rule the people mourn;

“‘Wherefore, honest men, and wise men, should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise, whatsoever is less than these cometh of evil.’”

Do you understand that in that last clause which I have read, the quotation from what Joseph Smith says the Lord says, he is referring to priestly offices? Let me read it again, so that you may catch my idea:

“Wherefore, honest men, and wise men, should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise, whatsoever is less than these cometh of evil.”

Mr. YOUNG. My construction would be that its reference is quite general, both ecclesiastical and

Mr. TAYLER. You notice the two references to the constitutional law?

Mr. YOUNG. Yes.

Mr. TAYLER (reading). “Therefore, I, the Lord, justify you and your brethren, of my church, in befriending that law which is the constitutional law of the land.”

Is that to be considered as part of the context throwing light upon the meaning of the other paragraph which you have just construed?

Mr. YOUNG. It seems to me to be rather distinct from it, but I know of no reason, Mr. Tayler, why that latter clause should not apply as a general rule. I know of no reason why we should not sustain good men and true men politically as well as in our church matters.

Mr. TAYLER. Of course not. He continues:

"The question in my mind is this: Who is to judge who are the good men and the wise men?"

Is there any independence of thought and action among the Mormon people respecting those who may fill ecclesiastical offices?

Mr. YOUNG. I think there is sufficient independence; yes.

Mr. TAYLER. Do you think there is any more independence in that respect than there is in the matter of choosing secular officials in the State?

Mr. YOUNG. It is done in a different manner.

Mr. TAYLER. But do you think there is any more independence of thought and action in the conduct of members of the church respecting the selection, in so far as they have any voice in it, of ecclesiastical officials, from the bishop up?

Mr. YOUNG. My answer would be, Mr. Tayler, that as has been frequently explained here, in ecclesiastical matters the initiative comes from the immediate authority——

Mr. TAYLER. I understand that.

Mr. YOUNG. And therefore there is no opportunity for the exercise of independence?

Mr. TAYLER. In the initiative?

Mr. YOUNG. Yes; in the initiative.

Mr. TAYLER. That is true, I understand.

Mr. YOUNG. Of course in political matters both the initiative and the right to finally determine who officials shall be, rests with the people. In that sense there is less independence, in an ecclesiastical sense, than in a political sense. But, after all, the matter is finally determined by the judgment, in the one case, of members of the church, and in the other case by the members of a political party; and that judgment, in both cases, is untrammelled.

Mr. TAYLER. Now, then, in the case of the ecclesiastical selection, the people have no right of choice as between two, have they?

Mr. YOUNG. No; when it comes to an ecclesiastical nomination we find ourselves, as I stated the other day, in the position of the United States Senate.

Mr. TAYLER. Exactly.

Mr. YOUNG. We have one name submitted to us.

Mr. TAYLER. Precisely.

Mr. YOUNG. And we may accept or reject it. If we reject it another nomination will be made.

Mr. TAYLER. And in that case you do not know, necessarily, who the other nominee may be?

Mr. YOUNG. No, sir; we are still in the same position as the United States Senate.

Mr. TAYLER. You never have more than one man, therefore, upon whom you pass judgment, and as to him it is yes or no.

Mr. YOUNG. That is correct.

Mr. WORTHINGTON. One man at a time, you mean?

Mr. TAYLER. At a time, of course.

Mr. YOUNG. Yes.

Mr. TAYLER. I will go back and read to the point where I commenced that part:

"The question in my mind is this: Who is to judge who are the good men and the wise men? If you leave me to judge, I say one man;

if you leave Brother Brigham to judge, he may say another man; or if we leave it to the people to judge, one says this is the wise man, and another says that is the wise man. The question with me is: Am I in a frame of mind that when I get the word of the Lord as to who is the right man, will I obey it, no matter if it does come contrary to my convictions or predilections? If I feel that I can obey the word of God on this matter, then I am in harmony with the spirit of the word of God. If I can not do it, I am not in harmony with that spirit."

That has no reference, according to your view, to anything but ecclesiastical or priestly place?

Mr. YOUNG. None whatever.

Mr. TAYLER. You would understand that the temporal interests which President or Apostle Smith (at this time he was an apostle) referred to as being subjects in which the church was interested would apply to the patronizing of manufacturing institutions in which the church was interested, would you not?

Mr. YOUNG. I do not understand that that is taught. There are a good many things of a temporal character that may properly come within the purview of ecclesiastical advice, it seems to me.

Mr. TAYLER. Well, I suppose you would. I do not know that I would—

Mr. YOUNG. Please let me continue. I do not think religion ought to rest entirely in the clouds.

Mr. TAYLER. No.

Mr. YOUNG. I think the effect of religion is to try to shape the lives of men, and the lives of men naturally have to do with temporal affairs.

Mr. TAYLER. Undoubtedly.

Mr. YOUNG. Within proper limitations.

Mr. TAYLER. You would not see any impropriety in the president of the church, who chanced to be the president of various industrial institutions, urging his people at a semiannual conference to patronize those institutions?

Mr. YOUNG. Well, it does not follow that because he is the president of the institutions that the church has any special interest in them; and in fact I believe I am correct, Mr. Tayler, in stating that it has been shown here that in many of those institutions of which Mr. Smith is president the church is very slightly, and as to some of them not at all, represented.

Answering your question, however, because I understand that I have not definitely answered it, I would not see anything inconsistent in the members of the church supporting, and therefore being urged to support, some institution that belongs to the church, and therefore to the members of the church.

Mr. TAYLER. If there was any evil associated at all with that situation, it would rather lie back of the mere advice of the official of the church, would it not, anyhow?

Mr. YOUNG. Will the reporter please read the question?

The reporter read the question as follows:

"Mr. TAYLER. If there was any evil associated at all with that situation, it would rather lie back of the mere advice of the official of the church, would it not, anyhow?"

Mr. TAYLER. That is to say, if we assume the propriety of the church, or the high officials of the church, being interested financially in great business institutions, the mere fact that one of them advises

people, or their people, to patronize it, would fall very far short of reaching that evil, if it was an evil, would it not?

Mr. YOUNG. I wish you would read that question.

The reporter read as follows:

“Mr. TAYLER. That is to say, if we assume the propriety of the church, or the high officials of the church, being interested financially in great business institutions, the mere fact that one of them advised people, or their people, to patronize it”——

Mr. TAYLER. Advised people, or their people. Just stop right there. Would it not be improper?

Well, omit that question. That is speculation, Major.

Mr. YOUNG. I confess I am not clear as to its purport.

Mr. TAYLER. If there was anything wrong about it, it would antedate the advice?

Mr. Young. I would like to state here, Mr. Tayler—and this is in partial answer to the question, perhaps—that it has been the policy of the Mormon Church, from the beginning, by its advice and on occasion by the investment of money, to support and continue enterprises that would have for their effect the giving of employment. I do not know how far that is an answer to your question.

Mr. TAYLER. I think that answers the question. If that is right, I certainly see no reason why the officials of the church should not urge people to patronize it.

Mr. YOUNG. If it is a church institution.

Mr. TAYLER. Yes.

Mr. YOUNG. The church would resent, I believe, any effort of a church official to build up an institution of which he happened to be the president or other officer, or in which he was financially interested, which did not belong to the church wholly or largely.

The CHAIRMAN. Is there anything further, Mr. Tayler?

Mr. TAYLER. That is all.

Mr. WORTHINGTON. Have you ever known the president, when the people were assembled in conference, to urge upon them to patronize particular institutions?

Mr. YOUNG. Well, yes; I believe I have.

Mr. WORTHINGTON. What was that?

Mr. YOUNG. Well, institutions engaged in home manufacturing—the Provo Woolen Mills, for instance. It rests rather indefinitely in my recollection that I have heard sermons to that effect. The Mormon authorities have always endeavored to build up local manufacturing institutions, and the people have been urged in an indefinite and general way, and I think sometimes in a special way, to patronize those institutions.

Mr. WORTHINGTON. To patronize home industries?

Mr. YOUNG. Home industries; yes, sir.

The CHAIRMAN. Colonel, as a people they have always been strongly protective, have they not?

Mr. YOUNG. Well, they seem to be more strongly devoted to that heresy now than I have ever known them to be before, Mr. Chairman.

The CHAIRMAN. Have you anything further?

Mr. WORTHINGTON. I think not.

The CHAIRMAN. Colonel, I want to ask you a question. Did you attend this conference last October—the general conference of the church?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. Was it largely attended?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. Was President Smith sustained at that time?

Mr. YOUNG. He was.

The CHAIRMAN. And the apostles?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. Were the apostles there?

Mr. YOUNG. There were a number there. There were several absentees.

The CHAIRMAN. Do you remember whether Senator Smoot was there?

Mr. YOUNG. Well, I remember that Senator Smoot was there part of the time. During part of the conference he was paying considerable attention to the Vice-President-elect of the United States.

The CHAIRMAN. Exactly. Very properly.

Mr. YOUNG. Well, there was a difference of opinion about that, I believe, Mr. Chairman.

The CHAIRMAN. Colonel, was there any vote of dissent on sustaining the president?

Mr. YOUNG. I saw none, and heard of none.

The CHAIRMAN. That was last October, I believe; was it not?

Mr. YOUNG. Yes; that is the time you have referred me to.

The CHAIRMAN. After he had testified before this committee that he was violating both the law of the church and the law of the land?

Mr. YOUNG. It was after his testimony had been completed before this committee.

The CHAIRMAN. Do you know what ones of the apostles are on a foreign mission now?

Mr. YOUNG. Apostle Heber J. Grant is president of the European mission.

The CHAIRMAN. Any other apostles?

Mr. YOUNG. I believe not, so far as I am informed.

The CHAIRMAN. Nowhere in the world on a foreign mission?

Mr. YOUNG. Not that I know of; no, sir.

The CHAIRMAN. The last witness spoke of some apostle being in Canada, and one in Mexico, I believe. Are they on a foreign mission?

Mr. YOUNG. It may be possible that they have some special mission of which I do not know, and of which the church does not know generally, as I understand it.

The CHAIRMAN. They are both reputed to be polygamists, I believe?

Mr. YOUNG. Do you refer to apostles—

The CHAIRMAN. Cowley.

Mr. YOUNG. Taylor and Cowley?

The CHAIRMAN. Yes.

Mr. YOUNG. So far as the evidence here is concerned, it would seem to put Mr. Taylor in that position. So far as Mr. Cowley is concerned, I will repeat what I stated the other day, that his general repute, as far as I know it, is that he has not entered into any polygamous relations since the manifesto.

The CHAIRMAN. You do not know whether they are on any special mission on behalf of the church?

Mr. YOUNG. I do not.

The CHAIRMAN. How long have they been out of the country?

Mr. YOUNG. I really do not know where they are or that they are out of the country. I was accepting the assumption of the Chairman that they were in those places—one in Canada and one in Mexico.

The CHAIRMAN. Yes; I was referring to the testimony of the last witness. You have heard no intimation as to what their special mission was?

Mr. YOUNG. None whatever.

The CHAIRMAN. Have you ever heard it intimated that their special mission was to keep out of the jurisdiction of the United States?

Mr. YOUNG. Well, there is a suspicion—

Mr. WORTHINGTON. May I be allowed to say that the last witness testified he did not know anything about it, except what this testimony showed.

The CHAIRMAN. What is it you say, Colonel?

Mr. YOUNG. I say that is suspected. I heard the statement made.

The CHAIRMAN. That is all.

Mr. YOUNG. But I do not know—let me qualify that answer. You have asked me whether they had a mission to keep out of the way. I would state that—

The CHAIRMAN. You misunderstood me, Colonel. I did not ask if they had a mission, but if you had heard that.

Mr. VAN COTT. Let the reporter read the question.

The reporter read as follows:

“The CHAIRMAN. Have you ever heard it intimated that their special mission was to keep out of the jurisdiction of the United States?”

The CHAIRMAN. Did you ever hear that before?

Mr. YOUNG. I have never heard a suspicion to that effect. But to qualify my previous answer, I have heard it stated that they were keeping out of the way of the subpoena of this committee.

The CHAIRMAN. Are they both polygamists, or so reputed to be?

Mr. YOUNG. They are both reputed to be polygamists.

The CHAIRMAN. Are those absent apostles sustained at your semi annual conference also?

Mr. YOUNG. Yes, sir.

The CHAIRMAN. So these apostles who are absent are sustained the same as those who are present?

Mr. YOUNG. It makes no difference.

The CHAIRMAN. That is all, Colonel.

The article in the Deseret News, referred to by Mr. Tayler in the examination of Mr. Young, is as follows:

[Deseret Evening News, Saturday, December 1, 1900.]

“TEMPLE WORK AND LAW OF TITHING.”

Discourse delivered at the general conference of the Church of Jesus Christ of Latter-Day Saints, in the Tabernacle, Salt Lake City, Sunday morning, October 7, 1900, by President Joseph F. Smith.]

“Our labors relate to temporal as well as spiritual things—Temple work—Laws and ordinances administered now the same as administered in the days of the Prophet Joseph Smith—Law of tithing—Necessity for greater union—Home industries.”

“I am requested to occupy the few minutes that remain of this forenoon meeting. I most earnestly indorse all the subjects that have been dwelt upon by the apostles during our conference, and I sincerely

hope that these important matters will find an abiding place in the memory of the people. We are engaged in a temporal as well as in a spiritual labor. You must continue to bear in mind that the temporal and the spiritual are blended. They are not separate. One can not be carried on without the other, so long as we are here in mortality. The Church of Jesus Christ of Latter-Day Saints on the earth is a physical organization as well as a spiritual organization. We need practical faith—that is, we need to practice the principles of our faith. Without the practice of the principles of the Gospel we can never realize our hopes and expectations concerning the results of this great latter-day work.

TEMPLE WORK.

“We are engaged in temple work. We have built four temples in this land, and we built two temples in the eastern country before we came here. During the lifetime of the Prophet Joseph Smith one of the two was built and dedicated, and the foundation of the other was laid and the walls had well progressed when he was martyred. It was finished by the efforts of the people under the most trying circumstances and in poverty, and was dedicated unto the Lord. The ordinances of the house of God were administered therein as they had been taught to the leading authorities of the church by the Prophet Joseph Smith himself. The same gospel, the same ordinances, the same authority and blessings that were administered by the Prophet Joseph Smith, and taught by him to his associates, are now being enjoyed by and taught to the Latter-Day Saints in the four temples that have been built in these valleys of the mountains. When you hear anybody say we have changed the ordinances, that we have transgressed the laws, or broken the everlasting covenants which were entered into under the personal administration of the Prophet Joseph Smith, tell them for me, tell them for President Snow, for President Cannon, and for all those who are living to-day who received blessings and ordinances under the hands of the Prophet Joseph Smith, that they are in error. The same gospel prevails to-day, and the same ordinances are administered to-day, both for the living and for the dead, as were administered by the prophet himself and delivered by him to the church. So far as I know there is not an ordinance of the church now enjoyed or practiced that was not revealed to the church by the Prophet Joseph Smith. I know of no new doctrine that has been revealed. Principles that were revealed to the Prophet Joseph have grown and developed more fully and clearly to the understanding, but we have received nothing new that I know of. Yet if we should receive something new through the proper channels of the church we should be as ready and willing to receive it as we were or would be to receive the same at the hands of the Prophet Joseph himself.

“LAW OF TITHING.

“The law of tithing is no new doctrine. The revelation upon that principle was given to the Prophet Joseph Smith. The only trouble is, the Latter-Day Saints have more or less neglected to obey that law. It is to the credit of President Snow and his administration, and to the credit of the Latter-Day Saints, that they have hearkened to his counsel and that many of us observe that law more faithfully to-day than

we have done in years past. So far as I am personally concerned (and I think I could speak for some others of my acquaintance, although I prefer that they should speak for themselves), the preaching of the law of tithing within the last year and a half has made not one whit of difference with me. My tithing to-day is the tenth of all that God gives me. My tithing heretofore has been the tenth of all that the Lord has given unto me. It has been my pleasure as well as my bounden duty to pay my tithing to the church every year on everything that the Lord has made me steward over. The man who does not believe in this principle ignores a revelation of God made known through the Prophet Joseph Smith. It is a commandment unto the people, with promise. It is essential to the temporal welfare of the Church of Jesus Christ of Latter-Day Saints. The sectarian world keep up their revenue by begging, by passing around the collection box every time they assemble for worship. They beg from the people for the maintenance of their churches. In their case the burden falls upon those who are willing to contribute of their substance. Those who are not willing or not so disposed, bear no part of the burden. This is unequal. It is not just. Furthermore, it is a system of the world, devised by man; and if there were a blessing attached to the maintenance of their churches, those who were unwilling to contribute would, of necessity, not be entitled to the blessing.

"In the law of God more is not asked of one man than of another. The Lord has placed the duty or burden, if duty with compensating blessings can be called a burden, equally upon every individual. His requirement is a just one, and it is simply to give one-tenth of what He gives to us as the reward of our industry, economy, and perseverance. If my one-tenth is large the payment of it is no more a burden upon me than it is upon the man whose tenth is a small amount. It is only a tenth for all—no more, no less. The Lord requires no more, under this law; and the interests of the church would, under existing circumstances, require no more if all the people would observe the law. Therefore, those who neglect this privilege neglect their opportunity to receive a blessing at the hands of God. They are not law-abiding members of the church; for a man who keeps all the laws save one and offends in not keeping that, he is a lawbreaker and he is not in harmony with the purposes of the Almighty. When he is weighed in the balance he must of necessity be found wanting, because he has disobeyed one law at least that has been given for his own good as well as for the maintenance of the temporal interests of the church. It is the law of revenue for the church. We do not come to you begging, nor asking favors. We merely ask you to do your duty as we do ours, to obey the law of God as we do, and thereby put yourselves in harmony with the requirements of God by which you help yourselves to the favor and blessing of the Almighty, and assist in maintaining the temporal interests of the kingdom of God on earth.

"We ask you also to be united, to be one. The brethren have said a good deal during this conference about oneness. I believe in union. I believe that except we are one in those things which pertain to the building up of Zion, we are not God's children. But I want to say to you that we are not one. There is not that union among us that should exist. Sometimes when President Snow tells a brother what he would like him to do, he at once turns on his heel and says that comes in contact with his manhood and his independence, and he

prefers to follow the bent of his own mind rather than to take such counsel. In that respect we are not always one. And I want to say that this lack of oneness is not confined to the people. It reaches into the higher ranks of the priesthood, if I have any power to discern spirits.

“Let me read what the Lord says:

“‘And now, verily, verily I say unto you concerning the laws of the land it is my will that my people should observe to do all things whatsoever I command them.

“This is the first point. It is the hub of the wheel.

“‘And that law of the land which is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before me:

“‘Therefore, I, the Lord, justify you, and your brethren, of my church, in befriending that law which is the constitutional law of the land;

“‘And as pertaining to the law of man, whatsoever is more or less than these, cometh of evil;

“‘I, the Lord God, make you free, therefore ye are free indeed; and the law also maketh you free;

“‘Nevertheless, when the wicked rule the people mourn;

“‘Wherefore, honest men, and wise men should be sought for diligently, and good men and wise men ye should observe to uphold; otherwise, whatsoever is less than these cometh of evil.’

“GREATER UNITY ENJOINED.

“The question in my mind is this: Who is to judge who are the good men and the wise men? If you leave me to judge, I say one man; if you leave Brother Brigham to judge, he may say another man; or, if we leave it to the people to judge, one says this is the wise man, and another says that is the wise man. The question with me is: Am I in a frame of mind, that when I get the word of the Lord as to who is the right man, will I obey it, no matter if it does come contrary to my convictions or predilections? If I feel that I can obey the word of God on this matter, then I am in harmony with the spirit of the work of God. If I can not do it, I am not in harmony with that spirit.

“SUPPORT HOME INDUSTRY.

“We believe in home industry. We believe in self-protection. We want the people to patronize home industries, that they may not languish or fail in our midst. To-day we have a woolen factory down in Provo. It has been there for many years. President Young was the practical founder of it. He inaugurated it. What for? That we might make our own blankets, and not have to import them; that we might make our own wearing apparel, employ our own people, keep our money at home, and grow wealthy as the Lord has designed we should. But what is the result? Eighty-five per cent of the goods manufactured at that factory has to find a market in the East or West for the want of support at home. We have to send our goods abroad to sell them. Think of it. Only 15 per cent of the product of the woolen mills at Provo are consumed by the people at home, and yet that factory has not capacity enough to furnish one-half of what the people here require—not one-quarter Brother Smoot says, and he

knows. How loyal we are to the principles that have been taught us by Brigham Young? How loyal we are to our own interests? Are you not ashamed of these facts?

"I wear homemade clothes and I am proud of them. I have worn but little else for years. If I have to pay a little more for them than for eastern goods—which I do not think I do—they are more serviceable, and it is far cheaper in the long run. But no! Some of our people would rather buy shoddy from the East, made by eastern workmen from rags gathered from pest houses and from the gutters, and ground up and mixed into your cloth that you buy from the world. You would rather have this than patronize home manufacture. Are you ashamed of my appearance? These clothes that I wear are of homemade cloth; the wool is from Utah sheep, made up by Utah workmen at the Provo factory; and the clothes themselves were cut and made by Utah tailors at John C. Cutler's. I am not ashamed of them. I therefore admonish you to look to our home industries. Not only is the Provo factory manufacturing goods, but there are factories elsewhere; there is one in Ogden, another in Logan, and still others on a small scale. They all are struggling against great odds because the people are not in sympathy with them; in fact, they discriminate against them by buying their shoddy goods from the East instead of patronizing home industries. I am ashamed of that conduct. I think every honest and intelligent man ought to be ashamed of such conduct. We ought to be loyal enough to one another to sustain ourselves and make ourselves independent. God bless you. Amen."

The CHAIRMAN. Who is your next witness, gentlemen?

Mr. WORTHINGTON. We want to recall Mr. Langton for a moment.

The CHAIRMAN. Mr. Langton will you please take the stand? Mr. Langton has been sworn.

Mr. WORTHINGTON. Yes. He was asked with reference to his transactions with Mr. Wallis, who, you will remember, was one of the witnesses who swears to the oath of vengeance, so-called.

TESTIMONY OF WILLIAM LANGTON—Resumed.

WILLIAM LANGTON, having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. Mr. Langton, I want to ask you whether, in what you saw or what you had to do with the witness Wallis, you reached any conclusion as to his mental condition, as to whether he was of sound or unsound mind?

Mr. LANGTON. I am positive that he was crazy.

Mr. WORTHINGTON. What was it that led you to have that opinion?

Mr. TAYLER. I object.

Mr. WORTHINGTON. On what ground?

Mr. TAYLER. Oh, this is another case of your construction of some wonderful creature and then proceeding to explain it in some way.

Mr. WORTHINGTON. If I understand, Mr. Chairman, Mr. Wallis testified—and he was one of the few witnesses who testified to anything that might be considered pertinent to any of the issues here, in my judgment—and was the only man who has testified, that the endowment oath contains an invocation to pray to the Most High to avenge the blood of the prophets on this nation, and other witnesses

have testified, and many of them, that there has been no change in the obligation. So that the inference is that Senator Smoot has taken that oath, and that he is at enmity with this nation.

I am proposing to prove that one of the three witnesses who gave testimony in that regard is of unsound mind. I produce a man who had dealings with him and who saw him, and I have found he was led to that conclusion, and now it is objected to showing why he reached that conclusion.

As I understand the rule to be, in every tribunal with which I am familiar, the opinion of a mere layman on the question of whether a man is of sound or unsound mind is not even admissible in evidence without his stating the facts upon which he bases his opinion, so that the tribunal before which he is testifying may have an opportunity to give the proper value, if any, to his opinion.

Mr. TAYLER. This witness was asked the other day—

Mr. WORTHINGTON. One moment. Please let me finish my statement of what I propose to show.

Mr. TAYLER. You sat down, and I thought you had finished.

Mr. WORTHINGTON. I propose to show that this man made a certain charge against this witness and was brought to task for it, and that he finally came and told him that he was in communication with the devil and that the devil had told him this thing was so, and to do this, and he was doing it by direct interposition of the devil; and that after being called before the bishop, or some other official of the church, he finally agreed that in the future he would not communicate any more with the devil on that subject.

It seems to me that would show, or tend to show, taken in connection with the manner in which the man talked and acted—and that is a matter which the witness saw for himself and which he can not translate to us—that he might reasonably reach the conclusion that the man was of unsound mind, and did reach it.

Mr. TAYLER. On your theory I might discredit all of your witnesses who claim any communication with God. There is no more imbecility in the one case than in the other.

The CHAIRMAN. It does not appear that this witness was a physician or that he had examined this man with a view of ascertaining his mental condition.

Mr. WORTHINGTON. Mr. Chairman, the Supreme Court of the United States has decided, what seems to be of some effect in all Federal tribunals, that the opinion of a layman who is not a physician may be given on the question of the soundness or unsoundness of mind of a man with whom he has come in contact.

Mr. TAYLER. As a witness coming in to impeach another witness that way? I would take that authority even from the Supreme Court, if it held that.

Mr. WORTHINGTON. I do not remember the particular case they decided, whether the man was a witness or not. No; I think it was a question of insurance there.

The CHAIRMAN. The purpose of this is to impeach the witness, Mr. Wallis. I do not see how it is competent.

Mr. WORTHINGTON. Not competent to show that a man who has come here and testified is an insane man? Very well.

The CHAIRMAN. The opinion of this witness as to whether he is insane or not, it seems to me, is a little farfetched. He has already

testified to his general reputation for truth and veracity, I believe—that he would not believe him under oath.

Mr. WORTHINGTON. I find, on further conference with this witness, that he is of the opinion I have intimated, and I would like to have the reason for it set forth. However, if the committee rules that it is not admissible, I have nothing further to ask of the witness.

The CHAIRMAN. That is all. Who is your next witness?

Mr. VAN COTT. Glen Miller.

TESTIMONY OF GLEN MILLER.

GLEN MILLER, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Miller?

Mr. MILLER. Glen Miller.

Mr. VAN COTT. What is your age?

Mr. MILLER. Forty-one.

Mr. VAN COTT. Where do you live at the present time?

Mr. MILLER. Salt Lake City, Utah.

Mr. VAN COTT. Were you born there?

Mr. MILLER. No, sir.

Mr. VAN COTT. Where were you born?

Mr. MILLER. I was born in the State of Ohio.

Mr. VAN COTT. Did you grow to manhood there?

Mr. MILLER. No, sir.

Mr. VAN COTT. Then just lead up to the present.

Mr. MILLER. My father took me when I was a lad about 6 years old to the State of Kansas, and I lived in the State of Kansas from that time until the time I moved to the State of Utah, barring one or two years that I was in railroad service outside of that State.

Mr. VAN COTT. When did you go to Utah?

Mr. MILLER. In 1889.

Mr. VAN COTT. You received your education, then, in Kansas?

Mr. MILLER. In the State University of Kansas; yes, sir.

Mr. VAN COTT. Have you lived in Utah since 1889?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. When you went to Utah the parties there were the Liberal and the People's parties?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Of which were you a member?

Mr. MILLER. I was a member of the Liberal party.

Mr. VAN COTT. What occupation did you follow in those early days?

Mr. MILLER. The same occupation I follow now, the loan and trust business, although then it was not an organized institution, as it is now.

Mr. VAN COTT. Were you at any time a reporter for a newspaper?

Mr. MILLER. I was not a reporter. I was on the editorial staff of the Salt Lake Tribune for thirteen years, during the same time I was in the other business.

Mr. VAN COTT. That was in the loan business?

Mr. MILLER. The loan and trust business.

Mr. VAN COTT. When did you cease your connection with the Salt Lake Tribune?

Mr. MILLER. In February of last year.

Mr. VAN COTT. Have you held any political position or official position in Utah?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. What?

Mr. MILLER. I was a member of the first State senate in the State of Utah, and—this is a Federal position—I was United States marshal of the State of Utah for four years and a half.

Mr. VAN COTT. Who appointed you?

Mr. MILLER. President McKinley.

Mr. VAN COTT. You served two years in the legislature, did you?

Mr. MILLER. Not two years. The first State legislature only sat for the one year, if you will recollect.

Mr. VAN COTT. I see. Have you been in the legislature since.

Mr. MILLER. No, sir.

Mr. VAN COTT. In any other way have you had any opportunity of becoming acquainted generally with the people in Utah?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. How?

Mr. MILLER. Well, I have been in almost every campaign since I have been in the State of Utah; in nearly every campaign I have been on the stump. I have also traveled over the State of Utah in connection with the business of the loan and trust company.

Mr. VAN COTT. What part of the State would you say you have covered; the most of it?

Mr. MILLER. I have been in every county in the State with the exception of one. That is the remote county of San Juan.

Mr. VAN COTT. There is a small population there?

Mr. MILLER. Very small; yes, sir.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. MILLER. No, sir.

Mr. VAN COTT. Have you ever been?

Mr. MILLER. No, sir.

Mr. VAN COTT. I naturally assume that you have taken an interest in public affairs, from what you say?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Calling your attention first to politics, how do you find the Mormon people in regard to being constant to their party lines?

Mr. MILLER. I have found them to be a people who are very loyal to their respective parties except as conviction calls them to change, upon argument, from time to time.

Mr. VAN COTT. Have you worked down with the voters?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Have you had occasion to observe practically the result that you have stated?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. In what way?

Mr. MILLER. Well, I have been chairman of election districts, chairman of precinct committees, secretary to the county committee, and have been in official positions in various State and county conventions since I have been in the State.

Mr. VAN COTT. Take some concrete cases. For instance, do you know Heber J. Grant?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Do you know whether he has run for a political office?

Mr. MILLER. Yes, sir; he ran as a member of the constitutional convention.

Mr. VAN COTT. Who was his opponent?

Mr. MILLER. I forget now who was. I think it was a Gentile, if I recollect aright. I do not recall the exact person at this time.

Mr. VAN COTT. There would be several persons on the Democratic ticket and several on the Republican ticket for that position?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Were you on the ticket?

Mr. MILLER. No, sir; I was not.

Mr. VAN COTT. Was Apostle Grant elected?

Mr. MILLER. He was defeated.

Mr. VAN COTT. And by a Gentile or by a Mormon?

Mr. MILLER. By a Gentile, as I recollect it.

Mr. VAN COTT. Did you have occasion to observe the vote in Mormon precincts?

Mr. MILLER. Yes, sir; I live in a strongly Mormon district myself.

Mr. VAN COTT. What have you observed?

Mr. MILLER. I have observed there that Gentiles always, as a rule, carry their full party strength, and that the Mormons of that district are loyal to their party tickets. I have also noticed a number of cases in which Gentiles would be opposed by Gentile votes, but where they were saved by Mormon votes.

Mr. VAN COTT. Have you ever yourself been elected as against any Mormon?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. When and who was your opponent?

Mr. MILLER. I was elected to the State senate of Utah against Mr. Savage, an old pioneer and one of the prominent members of the Mormon Church—a prominent merchant in Salt Lake.

Mr. VAN COTT. How did you hold up in the Mormon districts in the vote?

Mr. MILLER. I carried my full party vote throughout. I did not run behind the ticket.

Mr. VAN COTT. Did you have anything to do with the convention in Salt Lake County that nominated legislators who would sit in the legislature that elected Mr. Smoot as United States Senator?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. What did you have to do with them?

Mr. MILLER. I was a delegate in that convention, and I was chairman of our delegation.

Mr. VAN COTT. Were you what is called a Smoot man?

Mr. MILLER. No, sir.

Mr. VAN COTT. Were you anti-Smoot?

Mr. MILLER. I was opposed to Senator Smoot, or rather to the candidates for the legislature who were in his favor. I was opposed to them.

Mr. VAN COTT. My question is in that sense.

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Was it understood in the convention which legislators would be Smoot and which anti-Smoot?

Mr. MILLER. Yes, distinctly.

Mr. VAN COTT. You have spoken of some districts being strongly Mormon or strongly Gentile. Do you know of any districts in that convention that were Mormon and at the same time opposed to the legislators who were supposed to support Mr. Smoot?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. What is the fact?

Mr. MILLER. The western portion of the fourth precinct, of which I am chairman, is almost distinctly a Mormon district. I suppose 85 per cent of the population there are Mormons. Those three districts (the thirty-seventh, thirty-eighth, and thirty-ninth districts) cast their votes solidly against the Smoot candidates for the legislature. The Gentile districts in that precinct, being in the eastern end, are probably 75 per cent Gentiles. They cast their votes for the Smoot candidates. It was a case in which the Gentile delegates voted for the Smoot candidates and the Mormon delegates voted against them.

Mr. VAN COTT. And Mr. Smoot was at that time an apostle?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. And that was known?

Mr. MILLER. Yes, sir; absolutely.

Mr. VAN COTT. Did any of the Gentiles who supported Mr. Smoot in the convention—and by that I mean these legislators—afterwards oppose him?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Did these same Gentiles also work in the campaign?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. For the election of these same legislators?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Do you know Mr. Smoot personally?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. MILLER. I presume about twelve years—certainly over ten years.

Mr. VAN COTT. What can you say as to his prominence in respect to politics before his election as a United States Senator?

Mr. MILLER. He was one of the most prominent, one of the foremost men in his party; I think probably he was the most prominent Republican in the section of the State from which he came.

Mr. VAN COTT. Do you know, in the first State legislature, as to whether some persons were prominent as candidates for United States Senators who were not selected?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Who?

Mr. MILLER. Judge Goodwin was, prior to the convention, spoken of very prominently as candidate for the United States Senate. George Q. Cannon was also very prominently mentioned in that connection.

Mr. VAN COTT. Anyone else?

Mr. MILLER. Mr. Bennett, who was defeated, was of course very prominently mentioned for that position.

Mr. VAN COTT. George Q. Cannon was prominent also?

Mr. MILLER. Yes; I mentioned him just now.

Mr. VAN COTT. Mr. Bennett is a Gentile?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. And a lawyer?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Do you know of any prominent Mormon officials who worked for George Q. Cannon and for George Bennett as United States Senators?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Will you mention their names, please?

Mr. MILLER. The president of the senate, George M. Cannon, was reported to be a very strong supporter of George Q. Cannon. John Henry Smith was reputed to be a very strong supporter of George Q. Cannon; and a number of lesser people of that day.

Mr. VAN COTT. What about Apostle Lyman?

Mr. MILLER. He was reputed to be one of the strong supporters, yes, sir, of President Cannon.

Mr. VAN COTT. What would you say of James Sharp?

Mr. MILLER. Yes, sir; I know he was another one of the supporters of George Q. Cannon.

Mr. VAN COTT. Were those apostles you have mentioned active in advocating the candidacy of these two gentlemen?

Mr. MILLER. It was so reputed.

Mr. VAN COTT. And they were both defeated?

Mr. MILLER. Yes, sir. President Cannon's name was never presented to the Republican caucus.

Mr. VAN COTT. Now, from your knowledge of conditions as they existed before the division on party lines, were there any reasons why the Mormon people would naturally tend to the Democratic party?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. Briefly, what are they?

Mr. MILLER. In the first place, most of the legislation that was directed against the Mormon Church was passed by Republican Congresses. In the second place, the Federal officials who went there to administer those laws against them, or those laws directed against them, were mainly Republican. In the third place, the Mormon Representatives in Congress, the Territorial Delegates, had always affiliated nationally with the Democratic party.

Another reason I recall was that the Mormon Church had mainly been represented by Democratic lawyers in Washington here.

All those reasons operated to make the Mormons Democratic. Another reason was that the Liberal party, the anti-Mormon party, was probably 85 per cent made up of Republicans—people who had come there from other States where they had belonged to the Republican party and affiliated with the Republican party in national elections.

Mr. VAN COTT. There has been adverse comment because the Mormon people have, election after election, tended to go into the Republican party, and, in a sense, it is attributed to the dictation of the Mormon Church. I would like to have your views on that subject.

Mr. MILLER. I think natural causes have contributed chiefly to that result.

Mr. VAN COTT. Yes; we would like to have those.

Mr. MILLER. In the first place, about the time the agitation for statehood began, President Cleveland came into his second administration. The Democrats had always claimed to be opposed to the Utah Commission, a commission which had in charge the enforcement of the

laws there and which had general executive direction. Immediately upon Democratic commissioners being appointed to these offices by President Cleveland the position of the Democrats changed, and instead of being opposed to this commission they favored it.

In the second place, the Mormon Church had always espoused the cause of home industries and of upbuilding home institutions. As they came to divide upon party issues, to understand the significance of the two parties, they found that the Republican doctrine of protection and the fostering of home industries accorded with the same religious doctrines they had taught for a great many years in the State.

Another reason I recall at this time was that the Wilson bill had just passed and it was an especial blow to the industries of Utah. It lowered the price of wool; it tended to lower the price of sugar, and the Mormon Church had just become interested in the sugar-beet industry and in the building up of sugar-beet factories.

All these causes operated to turn the Mormon population from Democratic to Republican doctrines, and as the speakers went out through the State, discussing the issues of the campaign, putting these matters before the people, the Mormons saw more light upon this matter and they changed from Democratic to Republican doctrines, so that there was a general and a rapid increase in the Republican vote, and in the last election before statehood it resulted in a victory for the Republican party in the Territory of Utah.

MR. VAN COTT. And you attribute that result in any degree to the alleged dictation of the Mormon Church?

MR. MILLER. No, sir; I think the influence of the Mormon Church, if such it may be called, was more in the other direction, more against the Republicans at that time than it was in their favor, because I know that on the disbandment of the old parties a number of the Mormon Democratic leaders went among the people in certain sections of the State and told them that in the disbandment of the People's Party and the organization of the Democratic party the two were practically the same thing; that Democracy stood for the same thing for which the People's Party had stood. I know several sections in which that was done to the injury of the Republican cause.

Another reason, I think, that the Republicans fared badly in the beginning was that the Liberal party did not disband immediately upon the disbandment of the People's Party and that the Republicans who formed, chiefly, the Liberal party stayed in the Liberal organization and maintained their hostile attitude to the Mormons, so that there was practically no place for the Mormons to go except to the Democratic party, for the time being.

MR. VAN COTT. Calling your attention to what has been called the political rule in regard to obtaining consent, I would like your views fully on that matter, as represented by the sentiment of the Gentiles in Utah.

MR. MILLER. I, in connection with a very large number of Gentiles in Utah, I think, have always held that under the circumstances it was entirely proper that the church should require of those who had promised to give their whole time to church affairs that they should get the consent of the church authorities before they accept nomination to office, the same as would be required by an employer before he would permit a clerk or an employee to go into campaign work that would take away from the business a large portion of his time.

That, I understand, was the attitude of the church; and I know I, and a very large number of others, approved it—in fact such was the case with a large portion of those who have always been the opponents of the Mormon Church—leaders against the Mormon Church.

Mr. VAN COTT. And later on is it a fact that when the fight against Mr. Smoot commenced a great many of the Gentiles who in earlier years took that view of the question then deprecated the passing of this rule?

Mr. MILLER. I do not know that I would say it was so much that they deprecated the passing of the rule, but they at least opposed the candidacy of Senator Smoot, and used every weapon in their power they could against him.

Mr. VAN COTT. Was that one of them?

Mr. MILLER. That was one of them; yes, sir.

Mr. VAN COTT. Do you know Heber M. Wells?

Mr. MILLER. I do, sir.

Mr. VAN COTT. He has been the governor of the State since its admission to the Union?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. And a Mormon?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. What is the sentiment of the Gentile people and the Gentile papers as to his administration?

Mr. MILLER. The feeling, I think, in Utah has been that he has given us a good administration.

Mr. VAN COTT. And as to whether it has been fair?

Mr. MILLER. Yes, sir; it has always been looked upon as a fair administration.

Mr. VAN COTT. And as to his appointments?

Mr. MILLER. There has been individual criticism of his appointments at times. I think there has been a disposition among the Mormons at times to feel that he had given an undue proportion of appointments to the Gentiles; but I have always felt, and I think fair-minded men in Utah feel, that Governor Wells has been fair in those respects. I sometimes myself have had occasion to criticise his appointments, but I never criticised his sincerity and honesty in making them.

Mr. VAN COTT. The question was not so much directed to the appointments of particular men, but as to whether he had been fair and just in recognizing the Gentiles in his appointments.

Mr. MILLER. I think he has given a full share of appointive offices to the Gentiles.

Mr. VAN COTT. Were you in Salt Lake City during what is called the last city election, when a Republican city went Democratic?

Mr. MILLER. Yes, sir.

Mr. VAN COTT. In your judgment was that result in any just way attributable to the Mormon Church?

Mr. MILLER. No, sir; I think not. I think the Mormons, in common with the Gentiles—that is, a large portion of them—resented the methods that had been adopted there; and a large portion of the Republicans bolted the ticket, contributed to the Democratic campaign fund, and openly espoused the cause of the Democratic candidate.

Mr. VAN COTT. When you say "openly," may I ask if it was as public as so stating in the public press?

Mr. MILLER. Yes, sir; they gave interviews in which they announced that they would not support the Republican nominee.

Senator DUBOIS. Mr. Van Cott, would it interrupt you if I ask a question here?

Mr. VAN COTT. No, sir.

Senator DUBOIS. I have heard that expression two or three times in regard to the methods. What were those methods that were so objected to?

Mr. MILLER. It was the charge of improper use of money in purchasing delegates at the city election, Senator. That was the charge that was made.

Senator DUBOIS. Were there any specific charges, or just general charges?

Mr. MILLER. I heard a number of specific charges.

Senator DUBOIS. Did you believe that money had been improperly used, and on that account there was a revolt against the nominee?

Mr. MILLER. That was only one of the causes of the revolt, Senator?

Senator McCOMAS. Mr. Miller, I will not be able to stay here very long and I want to ask you some questions now. You referred to the beet-sugar industry and the woolen mills.

Mr. MILLER. Yes, sir.

Senator McCOMAS. You said the Mormons were inclined to protection, if for no other reason, because they were largely concerned in the beet-sugar industry. The Mormons are so concerned, are they?

Mr. MILLER. Yes, sir; the beet-sugar industry in Utah was established by the Mormon Church, so to speak.

Senator McCOMAS. Established by the church itself?

Mr. MILLER. Practically. The committee that investigated and reported upon the matter was appointed by the president of the Mormon Church.

Senator McCOMAS. I believe the revenue of the Mormon Church is about \$1,600,000 a year from tithes, is it not?

Mr. MILLER. I am not informed on that, sir.

Senator DUBOIS. Is that approximately your information?

Mr. MILLER. I do not even know that. It is not a matter I have interested myself in—the revenue that comes from tithes.

Senator McCOMAS. That revenue is in control of the president, the apostles, and certain others—about twenty-five or twenty-six others, without designating them—the heads of the church. Within your information, do they use parts of that fund to establish industries for their own people?

Mr. MILLER. No, sir; I never understood it so. The capital stock of this sugar industry was subscribed by private individuals, but I believe the subscriptions were solicited chiefly from among the wealthy Mormon classes.

Senator McCOMAS. Who owns the Zion cooperative store—the church?

Mr. MILLER. No, sir; it is owned by individuals, Mormons and Gentiles alike. I think the majority of the stock, if I am correctly advised, is owned by the Mormons, but as to that I could not say positively. That is my advice.

Senator McCOMAS. Is or is not the majority of the stock owned by the Mormon Church?

Mr. MILLER. No, sir; at least such has never been my information, and I do not think it is a fact.

Senator McCOMAS. Is it your impression that the church owns none?

Mr. MILLER. I never heard of them owning any at all as a church.

Senator McCOMAS. When you say that the Mormon Church has practically started and developed the beet-sugar industry, what do you mean then? Do you mean the Mormon individuals in the church?

Mr. MILLER. I can give you the facts in the case, if you would like, as they have been given to me.

The question of establishing the beet-sugar industry in that section of the country had been under consideration for a number of years. Members of the Mormon Church who had been in Germany, largely those who had been missionaries, had come back and reported that conditions in Utah they believed were favorable for the cultivation of the sugar beet. It had been urged, largely by Moses Thatcher, who was then one of the apostles of the Mormon Church, that the sugar industry would be a good one to establish in the State of Utah. He finally interested President Wilford Woodruff, at that time the president of the Mormon Church, in the matter, and the president of the church appointed a committee. I am not sure that it was in his capacity as president, but he at least appointed a committee to investigate and report upon the matter. They reported favorably. He then authorized them to solicit subscriptions in Salt Lake County and other portions of Utah for the establishment of a sugar factory. A large portion of that stock was subscribed for by the wealthy Mormons in Salt Lake City, and another large portion of it was subscribed for by Mormons in Cache Valley, which is almost a distinctly Mormon community. Mr. Thatcher told me that he rode individually through the county of Cache soliciting among customers of his bank who were Mormons in that county—

Senator McCOMAS. I do not care for those details.

Mr. MILLER. Well, that was to illustrate. That is simply the way it was established.

Senator McCOMAS. Mr. Miller, then when the sugar industry was commenced to be developed in Utah, the apostles and other high officials of the church would be in the directorate, would they not?

Mr. MILLER. The apostles, you say?

Senator McCOMAS. Yes; presidents of stakes and others.

Mr. MILLER. I do not know necessarily that.

Senator McCOMAS. Not necessarily, but what was the fact? There was no necessity about it at all. They did not need beet sugar.

Mr. MILLER. I think there were several apostles in the directorate of the sugar-beet factory at that time.

Senator McCOMAS. You think? Have you any doubt about that?

Mr. MILLER. I know that Moses Thatcher, who was an apostle, was in the directory. Heber J. Grant, I think, was in the directory. As to this I could not state at the present time without reference.

Senator McCOMAS. Is not that the case with the local bishops and the other officials in the church in the communities where the beet-sugar industry has been developed that the church officials of that locality, so far as you know, are largely directors and managers? You just said it was the Mormon Church.

Mr. MILLER. I will say that it is not so much the bishops and other

officials as it is the wealthy and more prominent members of the church, those who had put their money into it.

Senator McCOMAS. The wealthy and more prominent members of the church very often occupy the higher ecclesiastical offices, do they not?

Mr. MILLER. Yes; but a good many wealthy men in the Mormon Church hold no ecclesiastical positions whatever.

Senator McCOMAS. As to the woolen mills, is it not also a fact that the apostles of the church are directors in them, and that they came around for protection?

Mr. MILLER. Yes, sir.

Senator McCOMAS. That is uniform, is it not?

Mr. MILLER. I am not so well posted on the woolen mills. I know the president of the church is the president of the woolen mills, and I know several apostles are in the directory, too, but—

Senator McCOMAS. So that these industries being engaged in by the Mormons so notably, and even the business managed by the Mormons, you think that is one of the things that induced them to return to the doctrine of protection?

Mr. MILLER. Yes, sir; I think unquestionably it had the most potent influence in the State of Utah. I would say the doctrine of protection and its inculcation had a most potent influence in the State of Utah in turning—

Senator McCOMAS. You stated that a while ago. I did not mean to have you repeat that.

Mr. MILLER. Yes, sir.

Senator McCOMAS. Now, the Zion Cooperative Store, that is the great central business and all the branches. Is it or is it not true that there is a Zion Cooperative branch store in every ward or section, for instance, where there are a couple of hundred Mormons?

Mr. MILLER. No, sir; it is not true.

Senator McCOMAS. Are there very many branches of the Zion Cooperative Institution?

Mr. MILLER. No, sir; there are not.

Senator McCOMAS. There is only one main establishment?

Mr. MILLER. There is one main establishment. There is one branch at the city of Provo. There is one at the city of Ogden. If I mistake not, but of this I am not positive, there is one at Idaho Falls; but I am not certain as to that.

Senator McCOMAS. Is there any at Logan?

Mr. MILLER. I think not.

Senator McCOMAS. You are not sure of that?

Mr. MILLER. I do not think there is, sir.

Senator McCOMAS. Do you mean to say that in the city of Salt Lake there are no branches of the Zion Cooperative Institution?

Mr. MILLER. Absolutely none.

Senator McCOMAS. None at all?

Mr. MILLER. None at all.

Senator McCOMAS. But there is a Zion cooperative store for every special line of business, is there not?

Mr. MILLER. No, sir; I do not understand so.

Senator McCOMAS. For no special line of business?

Mr. MILLER. I do not know of any Zion cooperative mercantile institution stores for special lines of business.

Senator McCOMAS. It is a general store?

Mr. MILLER. It is a department store, covering practically most of the mercantile lines, and corresponding with what you would call in the East a department store.

Senator McCOMAS. That is what I wanted to know. It is a general department store, such as we have in the East?

Mr. MILLER. Yes, sir. The only establishment separate from it is a drug department.

Senator McCOMAS. Yes; I remember years ago they had a drug department.

Mr. MILLER. Yes, sir. It is separate to-day, too.

Senator McCOMAS. You are sure there are no branches?

Mr. MILLER. Absolutely sure, because it is a matter I have studied and written upon.

Senator McCOMAS. This general department store is officered mainly by Mormons, is it not?

Mr. MILLER. Yes, sir.

Senator McCOMAS. Or entirely?

Mr. MILLER. It is officered mainly by Mormons, and my impression is that all the directors of it are Mormons. There may be one who is not.

Senator McCOMAS. Is it not looked upon as intimately associated with the church government, and very closely attached to it?

Mr. MILLER. I would not say that it was looked upon as intimately associated with the church government, but it is looked upon as an institution that is more or less, using the term in the broad sense, under the patronage of the church.

Senator McCOMAS. The majority of the directors are apostles, are they not?

Mr. MILLER. I would not want to state positively as to that.

Senator McCOMAS. Do you think not?

Mr. MILLER. I could tell by reference. I can not tell without reference. At one time I knew exactly, when I had it fresh in my mind, but it has been a couple of years now since I——

Senator McCOMAS. What do you say as to the street railway and the light and water companies? Are the Mormons mainly managers and officers of those companies?

Mr. MILLER. The president of the Mormon Church is the president of the railway and lighting company. The manager of that company is also a Mormon.

Senator McCOMAS. Let me return a moment to the Zion Cooperative Mercantile Institution, to refresh your mind. Joseph F. Smith is the president of the church?

Mr. MILLER. Yes, sir.

Senator McCOMAS. He is a director, is he not?

Mr. MILLER. Yes, sir.

Senator McCOMAS. And Heber J. Grant?

Mr. MILLER. Yes, sir.

Senator McCOMAS. Is J. R. Winder?

Mr. MILLER. I think he is at present.

Senator McCOMAS. And H. Dinwoody?

Mr. MILLER. He is not an apostle, no, sir. He is one of the wealthy and prominent Mormons I speak of.

Senator McCOMAS. Has he no official position?

Mr. MILLER. I understand that practically every man in the church holds some official position.

Senator McCOMAS. They are all officers?

Mr. MILLER. All are officers of a lesser or greater degree.

Senator McCOMAS. Can you tell me what position he holds?

Mr. MILLER. I can not, sir.

Senator McCOMAS. P. T. Farnsworth?

Mr. MILLER. He is a Mormon. He holds no ecclesiastical position, I think.

Senator McCOMAS. John Henry Smith?

Mr. MILLER. John Henry Smith is one of the apostles of the church.

Senator McCOMAS. And of course Senator Smoot is an apostle. He is also a director?

Mr. MILLER. He is one of the apostles of the church.

Senator McCOMAS. F. M. Lyman?

Mr. MILLER. He is one of the apostles of the church.

Senator McCOMAS. And Anthon H. Lund?

Mr. MILLER. He is one of the presidency. I am not sure that he is one of the apostles.

Senator McCOMAS. You are quite sure they are nearly all officials of high degree?

• Mr. MILLER. Yes, sir; I think so.

Senator McCOMAS. As to the street railway company, are the Mormon officials mainly the managers and directors of that company?

Mr. MILLER. Some of them are Gentiles that I have in mind. Mr. McCormick is one of our very prominent Gentiles, and not connected with the Mormon Church.

Senator McCOMAS. In any of the street railway companies that you know of are any of the directors or managers non-Mormons?

Mr. MILLER. I think at the present time, since the amalgamation of the electric light company and the street railway company, a majority of them are Mormons.

Senator McCOMAS. You think so?

Mr. MILLER. Yes, sir.

Senator McCOMAS. And so with the light companies and water companies?

Mr. MILLER. We have no water company. The water is owned by the city as a municipality.

Senator McCOMAS. The Jordan River, and other streams, I suppose, are still running through the streets, as they used to do?

Mr. MILLER. The water comes through the Utah and Salt Lake Canal, which is largely owned by Salt Lake City.

Senator McCOMAS. What do you say about the lighting company?

Mr. MILLER. The lighting company is a Mormon institution in the sense that it is officered by the Mormons.

Senator McCOMAS. It is a Mormon institution?

Mr. MILLER. Yes, sir.

Senator McCOMAS. Is not that uniformly so in the other towns there?

Mr. MILLER. In the Mormon towns—yes, sir; naturally. In the Gentile towns, I would say not.

Senator McCOMAS. When you say “a Mormon concern,” you mean officered by conspicuous Mormon officials?

Mr. MILLER. I would not say conspicuous Mormon officials.

Senator McCOMAS. Well, Mormon officials.

Mr. MILLER. Yes, sir; by Mormon officials, because practically every male member of the church is an official.

Senator McCOMAS. And officered by leading Mormon officials, in this church organization?

Mr. MILLER. Yes, sir; that is true.

Senator McCOMAS. Now, are there many Gentile stores in the city of Salt Lake and the larger cities of the State?

Mr. MILLER. Indeed there are.

Senator McCOMAS. A great many?

Mr. MILLER. Yes; indeed there are.

Senator McCOMAS. Do the Mormons deal largely at the Gentile stores?

Mr. MILLER. Not so largely as they do at the Mormon stores, but it is increasing all the time, and they do deal to a considerable extent with the Gentile stores.

Senator McCOMAS. To summarize it all, the beet-sugar industry, the woolen mills, and the light company are under the control of the Mormon officials, in the sense that they are directors and managers. The water company you did not speak of.

Mr. MILLER. No, sir.

Senator McCOMAS. You spoke awhile ago of the very great political independence of the Mormons.

Mr. MILLER. Yes, sir.

Senator McCOMAS. I wanted to ask these questions to see whether upon reflection you think there is great commercial independence as between the Mormon Church and other people. Are the Mormons running the main business in every direction?

Mr. MILLER. Do you mean in Salt Lake City or in the State at large?

Senator McCOMAS. I will say Salt Lake City.

Mr. MILLER. In Salt Lake City I would say that the majority of the business is in the hands of the Gentiles, just as the majority of the population is Gentile. The Gentile trade principally goes to the Gentile stores. The majority of the Mormon trade goes to the Mormon stores.

Senator McCOMAS. Yes.

Mr. MILLER. But a very large share of Gentile trade goes to the Mormon stores and a very large share of the Mormon patronage goes into the Gentile channels, and from year to year they are growing more liberal in that respect—far more than when I went to Utah. It has become better every year.

Senator McCOMAS. Do the Gentiles get franchises for street railways and light companies?

Mr. MILLER. Yes, sir.

Senator McCOMAS. And telephone companies?

Mr. MILLER. Yes, sir. Mr. Cameron, who came there about the same time I did, is the gentleman with whom I had been acquainted prior to coming there, having known him in railroad life, and he associated with Mr. Spafford—

Senator McCOMAS. I do not care about any one man.

Mr. MILLER. These were Gentiles and they secured a franchise for a street railway.

Senator McCOMAS. Where is their railway operated?

Mr. MILLER. In Salt Lake City. It was.

Senator McCOMAS. Are they running it now?

Mr. MILLER. Since that time it has been purchased and amalgamated with the other systems.

Senator McCOMAS. With the Mormon system?

Mr. MILLER. Yes, sir.

Senator McCOMAS. So the Mormons really have all the railroads of the city, now?

Mr. MILLER. The concern that is officered by the Mormons does.

Senator McCOMAS. The railways have been united?

Mr. MILLER. The railways have been united; yes, sir.

Senator McCOMAS. And they are all run now by these officials of the Mormon Church. And it is so with the lighting company, is it not?

Mr. MILLER. Yes, sir; it is true with the lighting company.

Senator McCOMAS. Now, you spoke of the political independence. I only wanted to know how far it extended in the way of commercial independence in the community, and whether the Gentiles in that community had an equal chance with the Mormons. You seem now to have the light companies and street-railway companies and the Zion cooperative store in every large city run by the church officials. You say there are no branches to the Zion Cooperative Commercial Institution?

Mr. MILLER. Frankly I will say to you that I do not think the Gentile has an equal chance with the Mormon there, for this reason——

Senator McCOMAS. That is what I want to know.

Mr. MILLER. Do you want me to give my reason?

Senator McCOMAS. Yes.

Mr. MILLER. For this reason: That where there is one large predominant religious organization or one nationality they are apt to be clannish, and they are clannish. I have seen it elsewhere. They patronize their own people. It is an unfortunate thing, I think, when you do have a majority of a population belonging to one nationality. I do not mean American nationality, but a foreign nationality, such as the Scandinavian or others; or all belonging to one church, as the Methodists, the Catholics, the Presbyterians, or any others, because they get clannish and throw their business into one line.

Senator McCOMAS. You have described what you consider to be the political independence of the Mormons, and I wanted to know if it extended to the commercial independence.

Mr. MILLER. Just in the sense I have stated.

Senator McCOMAS. So that, because of the community being as you have described it, the Mormons do dominate in business and in public utilities?

Mr. MILLER. In Salt Lake City, you know, the Gentiles are in the majority.

Senator McCOMAS. But the street railways and the electric lighting company are not in the hands of the majority.

Mr. MILLER. No, sir, they are not in the hands of the majority. I think, however, the bonds and the financial interest in them are owned in major part by the Gentiles outside of Salt Lake City.

Senator McCOMAS. That is all I care to ask.

Senator KNOX. Are the street railways and other public utilities granted by the municipality or by the State?

Mr. MILLER. By the municipality in Salt Lake City.

Senator KNOX. That is all I wanted to ask.

The CHAIRMAN. Is that all, gentlemen?

Mr. VAN COTT. Mr. Chairman, if I may be permitted, I will not pursue the inquiries I had proposed for a few moments. I wish to follow this line of questioning up, or rather to ask a few questions.

Mr. MILLER, calling your attention first to the street railway in Salt Lake City, until quite recently was not the majority of the stock in the street railway company owned by A. W. McCune, a Gentile?

Mr. MILLER. It was; yes, sir.

Mr. VAN COTT. And he consolidated with the electric light and power company?

Mr. MILLER. He sold his stock to the other company; yes, sir.

Mr. VAN COTT. But did he not continue to be a stockholder?

Mr. MILLER. Yes, sir; he continued to be a stockholder.

Mr. WORTHINGTON. How long ago was that? How recent was that consolidation?

Mr. MILLER. My recollection is it was during last year. I can not say what month it was. I know about the incident well.

Mr. VAN COTT. So up to that time the street railway that has been talked about was in the hands of Gentiles?

Mr. MILLER. Yes, sir, and directed largely by Gentiles—handled by them up until very recently.

Mr. VAN COTT. What time last year was this transfer made?

Mr. MILLER. I can not say definitely what time of the year it was, Mr. Van Cott. I know the railway was for sale, and I was figuring myself, with other parties, on the purchase of it, so it was not—do you want me to finish that?

Mr. VAN COTT. Yes.

Mr. MILLER. I say it was not particularly a transfer to Mormon or non-Mormon interests. It was up for sale to anyone who might want to buy it.

Mr. VAN COTT. Calling attention to the electric light and power company before the consolidation with the street railway company, who owned the majority of that stock? I mean going back three or four years.

Mr. MILLER. Oh, it was owned by Gentiles almost exclusively.

Mr. VAN COTT. And they sold out?

Mr. MILLER. The Walkers started it. Then it was sold to an English syndicate, and from their hands it passed into the hands of the electric light company, which now has it.

Mr. VAN COTT. What is your understanding as to the consolidated company, whether a majority of that stock is owned in the East and in England, or is owned in Utah?

Mr. MILLER. My understanding, as I said a few minutes ago, is that the majority of the financial interest is owned outside of Utah entirely.

Mr. VAN COTT. Calling your attention now to another large electric light and power company—the Telluride Company—do you know of that?

Mr. MILLER. I do.

Mr. VAN COTT. That gets its power in Logan Canyon, in Cache County?

Mr. MILLER. And also at Provo Canyon—two canyons.

Mr. VAN COTT. Is that company owned or controlled by Mormons?

Mr. MILLER. It is owned and controlled by non-Mormons.

Mr. VAN COTT. Going back, now, to the same question that was asked you in regard to protection, that Senator McComas touched on, did you mention the lead interests as one that tended——

Mr. MILLER. I did not mention it; but that was one—the lead interest, the sugar interest, the wool interest; and probably the Wilson bill had more effect upon the sheep men of the State than on anyone else, because they felt very keenly the lowering of the price of wool consequent upon the passage of the Wilson bill. I think probably the Republicans made more converts because of that one item than through any other.

Mr. VAN COTT. In what year did you become United States marshal?

Mr. MILLER. 1897.

Mr. VAN COTT. How long did you serve in that position?

Mr. MILLER. Four years and a half.

Mr. VAN COTT. Now, in your knowledge of the State and in traveling over the State and everything of that kind, I wish you would state what the sentiment is among the Mormons in regard to new polygamous marriages; that is, since the manifesto.

Mr. MILLER. The general impression has been, both among the Mormons and Gentiles, that there have been no polygamous marriages sanctioned by the church.

Mr. VAN COTT. I wish to know particularly the sentiment in regard to whether it is in favor of polygamy or against it?

Mr. MILLER. Decidedly against it.

Mr. VAN COTT. What is your opinion as to whether a sentiment of that kind existed against polygamy in the Mormon Church before the manifesto?

Mr. MILLER. Yes, sir; it did. I know that.

Mr. VAN COTT. And also as to whether the church could restore the practice of polygamy if it should so attempt.

Mr. MILLER. I do not believe it would be possible to ever restore polygamy in the State of Utah.

Mr. VAN COTT. Do you know by repute of men living in unlawful cohabitation?

Mr. MILLER. I do.

Mr. VAN COTT. What is the sentiment of Gentiles in regard to complaining or informing in regard to such matters?

Mr. MILLER. Well, there has been a sentiment against that, as there has been against any informing against any of the infractions of law generally. They felt that it was only a question of time that the practice would die out through the death of those who practiced it, and the removal of that generation. It was getting less and less all the time.

Mr. VAN COTT. You mentioned the fact that the liberal party did not disband at once after the manifesto.

Mr. MILLER. No, sir.

Mr. VAN COTT. Was that because of some skepticism as to good faith?

Mr. VAN COTT. I think the liberal party at that time did not believe in the sincerity of the Mormons. That was the impression at the time.

Mr. VAN COTT. Taking the fourteen years that have elapsed since

that manifesto was issued, I wish you would give your opinion as to the result that has been accomplished.

Mr. MILLER. I think that death has gradually removed a majority of those who practiced polygamy at the time of the manifesto, and I think probably in ten or fifteen years the last of those who have practiced polygamy will be removed. The sentiment has grown more and more against the practice and the system as we got further removed from it. The young Mormons especially, I think, are opposed to it, and could not be induced to go into it again. The intermarriages between Mormons and Gentiles have had a great deal to do with the building up of such a sentiment. Conditions are steadily improving, I think, in the State of Utah.

Mr. VAN COTT. To sum up the progress of the fourteen years, do you think it just medium, or what?

Mr. MILLER. I think the progress has been more than could have been expected.

Mr. VAN COTT. Do you know the general reputation for truth and veracity of Angus M. Cannon, jr., in the community in which he lives?

Mr. MILLER. I do.

Mr. VAN COTT. Is it good or bad?

Mr. MILLER. It is bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. MILLER. No, sir; I would not.

Mr. VAN COTT. How long has it been bad, to your knowledge?

Mr. MILLER. Oh, I can not remember the exact year, but I remember what focused it more—

Mr. TAYLER. I object.

Mr. VAN COTT. I just want to know the—

Mr. MILLER. Four or five years.

Mr. TAYLER. Angus M. Cannon is not a witness whose credibility is in question here. He testified about nothing.

Mr. VAN COTT. It is in the record. I have no further questions to ask on that particular subject.

Mr. TAYLER. You were going to have him go into something—

Mr. VAN COTT. I beg your pardon. I know my own mind. I was not. Are the majority of banks in Salt Lake City owned by Mormons or Gentiles?

Mr. MILLER. Gentiles.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. Mr. Miller, the president of the church is the president of how many banks in Salt Lake City?

Mr. MILLER. He is president of Zion's Savings Bank and Trust Company. He is president of the Utah State Bank. Those are the only two that he is president of.

Mr. TAYLER. What was the adjective you used respecting the great improvement in conditions in Utah respecting polygamy and polygamous living since 1890?

Mr. MILLER. I said I thought it was more than could reasonably have been expected. I do not know that that is my exact language.

Mr. TAYLER. So that if we find the first president and six or seven of the apostles are living in unlawful cohabitation with their polygamous wives, that is much better than you expected?

Mr. MILLER. I did not say in that respect. I said in the State at large—in the general condition of polygamy.

Mr. TAYLER. Is it, in that respect, better than you expected?

Mr. MILLER. No, sir; in that respect it is not any better than I expected.

Mr. TAYLER. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Hughes.

TESTIMONY OF JOHN W. HUGHES.

JOHN W. HUGHES, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Hughes?

Mr. HUGHES. John W. Hughes.

Mr. VAN COTT. Where do you live?

Mr. HUGHES. In Salt Lake City.

The CHAIRMAN. What is your age?

Mr. HUGHES. Forty-seven.

Mr. VAN COTT. Were you born in Utah?

Mr. HUGHES. No, sir.

Mr. VAN COTT. Where were you born?

Mr. HUGHES. In Great Britain.

Mr. VAN COTT. When did you go to Utah?

Mr. HUGHES. In 1891.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. HUGHES. No.

Mr. VAN COTT. Have you ever?

Mr. HUGHES. No.

Mr. VAN COTT. Do you belong to the Presbyterian Church?

Mr. HUGHES. Yes.

Mr. VAN COTT. Are you connected in any way with the newspaper business.

Mr. HUGHES. Yes; I have been in the newspaper business for about twenty years.

Mr. VAN COTT. What paper do you conduct, if any, at the present time?

Mr. HUGHES. Truth, of Salt Lake City, a weekly paper.

Mr. VAN COTT. Have you been a reporter on any daily papers in Salt Lake City.

Mr. HUGHES. Yes, sir; I was a reporter on either the Tribune or the Herald from 1891, the time I went there first, until three years and a half ago, when I started my own paper.

Mr. VAN COTT. Have you had occasion to travel over the State any?

Mr. HUGHES. Not a great deal. I have traveled some.

Mr. VAN COTT. You are interested, I suppose, in getting the news?

Mr. HUGHES. Yes.

Mr. VAN COTT. Calling attention first to the political conditions, were you a member of the Liberal party?

Mr. HUGHES. No; the Liberal party was just on the eve of disbanding, and the Democratic and Republican parties were just about being formed, when I went to Salt Lake, and I did not belong to the Liberal party.

Mr. VAN COTT. In politics what are you?

Mr. HUGHES. I am a Republican.

Mr. VAN COTT. Have you taken any interest in watching the Mormon vote; that is, whether it shifted back and forth, or whether it was constant?

Mr. HUGHES. Yes. In the course of my duties as reporter on the papers, I was obliged to watch it closely and take a good deal of interest in it.

Mr. VAN COTT. What is your opinion as to the constancy of the Mormon voters in adhering to their party lines?

Mr. HUGHES. As far as I have observed, and by comparison of figures at election times in Mormon precincts and Gentile precincts, I think the Mormon people have been more faithful to their party lines than the Gentiles.

Mr. VAN COTT. Have you noticed when Mormon candidates, for instance, are opposed to Gentiles, as to whether Mormons in those cases adhere to their party lines?

Mr. HUGHES. They do.

Mr. VAN COTT. Do you know Joseph F. Smith or do you know of him?

Mr. HUGHES. I know him by sight, and have known him for years. I never spoke to Mr. Smith.

Mr. VAN COTT. What is the sentiment among Gentiles as to whether he is sincere in keeping the church out of politics?

Mr. HUGHES. The sentiment is that he is exceedingly sincere and very honest in that regard, and in all regards, in fact. They think he is a fanatic in religion, but very honest, and that he is determined to keep the church out of politics, and has done so since he has been president. That is a strong feeling among the Gentiles.

Mr. VAN COTT. What is the sentiment among the Gentiles in regard to prosecuting men who are guilty of unlawful cohabitation, where the marriages were contracted previous to the manifesto?

Mr. HUGHES. Well, the sentiment has been right along that these old fellows that are in polygamy—to let them alone and they will soon die out. Very soon none of them would be left. The great point with the Gentiles is that there will be no new plural marriages.

Mr. VAN COTT. Do you know anything about new polygamous marriages since the manifesto?

Mr. HUGHES. I only know talk and rumor of three or four, maybe two or three. Abraham H. Cannon—there was a talk about that; and I think there was some talk about a Teasdale case, and one or two others. I forget the names. There were very few that were talked of. Whether there was any authenticity in the talk or not I do not know.

Mr. VAN COTT. I suppose you know there are many rumors?

Mr. HUGHES. Lots of them.

Mr. VAN COTT. And many of them are found not to be true?

Mr. HUGHES. A great many of them—90 per cent, or more than that.

Mr. VAN COTT. Do you know Mr. Smoot personally?

Mr. HUGHES. Yes.

Mr. VAN COTT. Was he prominent or not in Republican politics before he was nominated as Senator?

Mr. HUGHES. Yes; he has been prominent. I have known him prominently in politics for, oh, eight or nine years, I guess.

Mr. VAN COTT. What is your opinion as to the sentiment and feel-

ing of the Mormon people themselves in regard to polygamous marriages since the issuance of the manifesto?

Mr. HUGHES. The Mormon people generally are as much against new polygamous marriages as the Gentiles, I believe, as a rule, especially the younger Mormons that I meet. I meet a good many of the younger Mormons, and they are absolutely against it. They would not tolerate it.

Mr. VAN COTT. Have you had any occasion to investigate and find out the number of polygamists, for instance, in Salt Lake City?

Mr. HUGHES. Yes.

Mr. VAN COTT. What is the population of Salt Lake City?

Mr. HUGHES. It is approximately 70,000 to 75,000.

Mr. VAN COTT. Has this investigation been recent?

Mr. HUGHES. About two weeks ago.

Mr. VAN COTT. How many polygamists did you find in Salt Lake City?

Mr. HUGHES. Seventy-four.

Mr. VAN COTT. And how many over, say, 60 years of age and under 70?

Mr. HUGHES. I think more than 50 of them were over 60.

The CHAIRMAN. Witness, when you say 74, do you mean 74 heads of families—males?

Mr. HUGHES. Yes; I mean 74 men who have more than one wife.

Mr. VAN COTT. Can you give their ages? I mean to group them. I do not mean in detail.

Mr. HUGHES. I think about fifty of them were over 60 years of age. I have not the figures right with me.

Mr. VAN COTT. And the others were over what age?

Mr. HUGHES. Oh, some of them were over 70, and one or two were over 80. I think there were only two under 50.

Mr. VAN COTT. What do you believe to be the result in Utah toward a settlement of the difficulties there after the fourteen years that have elapsed since the issuance of the manifesto?

Mr. HUGHES. The results of what? Will you please repeat the question?

Mr. VAN COTT. What progress, I probably should have said. What has been the progress, in your opinion, in Utah, toward the settlement of the difficulties there during the fourteen years that have elapsed since the issuance of the manifesto?

Mr. HUGHES. I think we have made very great progress. There have been a few lapses, but take it altogether it has been marvelous, the progress that has been made and the difference in sentiment, to what it was when I went to Salt Lake first. The Mormons were clanish to a great extent and stuck by themselves. The Gentiles did the same thing. They were at dagger's points. The Mormons persisted in their polygamy. The Gentiles insisted in their fighting; and the Mormon people now are as much against polygamy as the Gentiles. They are intermingled together in business and socially. They intermarry much more than they used to do; and, taking the last ten or twelve years—ten years especially—we have made wonderful progress.

Mr. VAN COTT. Do you know whether a great many young Mormon men go away from Utah to be educated in the universities and colleges?

Mr. HUGHES. They do. A great many go to Ann Arbor and some go to Harvard.

Mr. VAN COTT. Some of the young girls, too?

Mr. HUGHES. Yes.

Mr. WORTHINGTON. I would like to know whether any of the members of the church are now officers in the Army or at West Point or Annapolis.

Mr. HUGHES. There are one or two that I know. There is Bryant Wells, a brother of ex-Governor Wells, who is in the Army. Is he a captain or a major? I do not know just exactly.

Mr. WORTHINGTON. Do you know one named Pierson who is in the Navy?

Mr. HUGHES. Yes.

Mr. WORTHINGTON. He was with Dewey at Manila.

Mr. HUGHES. Yes; at Manila.

Mr. WORTHINGTON. Is he in the Navy still?

Mr. HUGHES. My impression is that he is.

Mr. WORTHINGTON. He has not been court-martialed for treason yet, has he?

Mr. HUGHES. I never heard of it.

Mr. TAYLER. How did you take this census of polygamists?

Mr. HUGHES. Why, I had a man go around and talk with people in the different wards.

Mr. TAYLER. Oh, you did not do it yourself.

Mr. HUGHES. I did not.

Mr. TAYLER. That is unfortunate. How did he do it?

Mr. HUGHES. He went around to people and talked to people in different wards. He was well acquainted——

Mr. TAYLER. Did he go to a house and say: "Who lives here?" "John Smith." "Are you a polygamist?" "No."

Mr. HUGHES. No; he did not take a house-to-house canvass. If you will let me tell you I will tell you how it was done.

Mr. TAYLER. Yes; I want to know.

The CHAIRMAN. Did you go with him?

Mr. HUGHES. I did not.

Mr. TAYLER. You do not know anything about who these men are?

Mr. HUGHES. I know some of them.

Mr. TAYLER. You would not know whether he included or did not include certain people.

Mr. HUGHES. Let me tell you how I did it.

Mr. TAYLER. He went and did it, did he not?

Mr. HUGHES. Yes.

Mr. TAYLER. You have only his word for how he did it, have you not?

Mr. HUGHES. That is all.

Mr. TAYLER. For instance, would he include a man like Brigham H. Roberts?

Mr. HUGHES. Just in the ward in which he lived.

Mr. TAYLER. Suppose he had three wives at three different homes; at which place would he count him?

Mr. HUGHES. He would count him one man.

Mr. TAYLER. But would he be sure to count him if he had a home in Richfield or some other place?

Mr. HUGHES. This is Salt Lake City.

Mr. TAYLER. I understand it is Salt Lake City. Do you know whether, for instance, he counted Brigham H. Roberts?

Mr. HUGHES. I do not believe he did, because I do not think Roberts's home is in Salt Lake City.

Mr. TAYLER. But he has a wife there?

Mr. HUGHES. That may be.

Mr. TAYLER. And if he has a wife there he lives with her there when he lives with her at all, does he not?

Mr. HUGHES. I suppose so. I do not know.

The CHAIRMAN. Did he furnish you with a list of those that he found were living in polygamy?

Mr. HUGHES. He did.

The CHAIRMAN. Have you that with you?

Mr. HUGHES. I haven't it here. I published it in my paper.

Mr. TAYLER. You published a list of people—the names?

Mr. HUGHES. No; not the names. No; I did not get the list of names.

Mr. TAYLER. Did he get the names?

Mr. HUGHES. He had the names.

Mr. TAYLER. And brought them to you, did he?

Mr. HUGHES. Yes; he showed me them.

Mr. TAYLER. Did you look them over?

Mr. HUGHES. Yes; I looked them over.

Mr. TAYLER. You looked them over, did you?

Mr. HUGHES. I recognized a lot of them that I knew were polygamists already.

Mr. TAYLER. Did he tell you how many wives each one of them had?

Mr. HUGHES. No, I did not ask him that.

Mr. TAYLER. Did he not inquire about that?

Mr. HUGHES. No; if they had more than one, that was enough. Two are as bad as a dozen, I thought.

Mr. TAYLER. It did not make any difference to you whether there were two or a dozen?

Mr. HUGHES. All I wanted to find out was whether they were violating the law, and if they had two wives they violated it just as much as if they had a dozen.

Mr. TAYLER. That is all.

The CHAIRMAN. Do you remember whether the name of the president of the church was on the list?

Mr. HUGHES. It was.

Mr. VAN COTT. That is all.

The CHAIRMAN. Who is your next witness.

Mr. VAN COTT. Mary G. Coulter.

TESTIMONY OF MRS. MARY G. COULTER.

Mrs. MARY G. COULTER, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mrs. Coulter?

Mrs. COULTER. Mary G. Coulter.

Mr. VAN COTT. Is your husband a physician?

Mrs. COULTER. He is.

Mr. VAN COTT. Where do you live?

Mrs. COULTER. Ogden, Utah.

Mr. VAN COTT. Were you born in Utah?

Mrs. COULTER. I am a native of Illinois.

Mr. VAN COTT. Were you educated there?

Mrs. COULTER. Partially, at the high school at Mount Carroll, Ill. I am an alumnus of that institution; also of Northwestern College at Naperville, Ill., and also of the University of Michigan.

Mr. VAN COTT. Did you take a special course in the university?

Mrs. COULTER. I concluded my course in the law department and graduated there.

Mr. VAN COTT. Did you ever enter upon the practice of law?

Mrs. COULTER. I did not.

Mr. VAN COTT. Did you become a member of the bar?

Mrs. COULTER. I was admitted to the bar in the State of Michigan and also in the State of Illinois.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mrs. COULTER. I do not.

Mr. VAN COTT. Have you ever?

Mrs. COULTER. No, sir.

Mr. VAN COTT. Do you belong to any church?

Mrs. COULTER. I am not a member, at present, of any church.

Mr. VAN COTT. When did you go to Utah, Mrs. Coulter?

Mrs. COULTER. In July of 1889.

Mr. VAN COTT. Have you lived in Ogden since then?

Mrs. COULTER. Continuously, with the exception of brief sojourns in other portions of the country.

Mr. VAN COTT. Were you a member of the Liberal party?

Mrs. COULTER. I was not.

Mr. VAN COTT. Or a member of the People's Party?

Mrs. COULTER. I was not, although I witnessed the hostile conditions of that time.

Mr. VAN COTT. And you know the conditions that existed along then until the manifesto was issued?

Mrs. COULTER. I do.

Mr. VAN COTT. And the division on party lines?

Mrs. COULTER. I do.

Mr. VAN COTT. Have you ever held office in Utah?

Mrs. COULTER. I have.

Mr. VAN COTT. When?

Mrs. COULTER. I was a member of the fifth legislative assembly.

Mr. VAN COTT. What year?

Mrs. COULTER. In January, 1903.

Mr. VAN COTT. Were you in the legislature that elected Mr. Smoot United States Senator?

Mrs. COULTER. I was.

Mr. VAN COTT. Did you go pledged or unpledged to the legislature?

Mrs. COULTER. I went unpledged.

Mr. VAN COTT. When you went to the legislature, or before you went to the legislature—I mean after your election—did you pledge your support to Mr. Smoot before you voted?

Mrs. COULTER. I did not, save as later, through the caucus. I caucused with my party, and was glad to abide by the result.

Mr. VAN COTT. Did you inquire at all as to whether Mr. Smoot was a polygamist before you voted?

Mrs. COULTER. I did. I took the trouble to put the question directly to Senator Smoot.

Mr. VAN COTT. And he answered you?

Mrs. COULTER. He answered me, and, I believe, candidly.

Mr. VAN COTT. Did you vote in the caucus for Mr. Smoot?

Mrs. COULTER. I did.

Mr. VAN COTT. Did you also take any pains before the voting for him to write to gentiles in Provo regarding Mr. Smoot?

Mrs. COULTER. I did. I was most conscientious in the matter. I wanted to know all about the candidate, who seemed to be the only candidate seriously in the field. Therefore I addressed letters to various citizens of the city of Provo to get whatever information was possible from them.

Mr. VAN COTT. Were your inquiries general or were they confined to gentiles?

Mrs. COULTER. They were confined mostly to gentiles.

Mr. VAN COTT. Do you know whether Mr. Smoot was prominent in the politics of the State before he was elected United States Senator?

Mrs. COULTER. I think he has been. He has always been prominent in business and political circles.

Mr. VAN COTT. Now, in the campaign leading up to your election to the legislature, I suppose you were exempted from the usual contributions and assessments to carry on the campaign?

Mrs. COULTER. Exempted from—

Mr. VAN COTT. From the financial contributions and expenses.

Mrs. COULTER. No, sir.

Mr. VAN COTT. Did you pay your proportion?

Mrs. COULTER. I contributed my proportion, just as any other candidate would do.

Mr. VAN COTT. And in the legislature, did you hold any office there?

Mrs. COULTER. I can not say that I held any office.

Mr. VAN COTT. Any position?

Mrs. COULTER. I held a position.

Mr. VAN COTT. What was it?

Mrs. COULTER. I was chairman of the judiciary committee of the house.

Mr. VAN COTT. And you served in that position?

Mrs. COULTER. During the entire session.

Mr. VAN COTT. Have you taken occasion to observe the constancy of Mormons in adhering to their parties?

Mrs. COULTER. I have.

Mr. VAN COTT. What have you observed in that particular?

Mrs. COULTER. I think they will size up pretty fairly with Gentiles in that regard. In the county of which I am a citizen the political seas probably are smoother than in Salt Lake County, and there is never the turmoil that they have in Salt Lake City. The Mormons and Gentiles both, I think, adhere quite closely to political preferences. In fact, ever since the alignment on national lines, they have done so quite as well as in Illinois, or Michigan, or any other State. That is, in my particular county. There is less agitation there, and there has always been less agitation there against the Mormon people, although our population is about 60 per cent Gentile in Ogden City.

Mr. VAN COTT. What would you say when you consider the whole

of Weber County, in which Ogden City is situated, as to the percentage of Gentiles?

Mrs. COULTER. There is a majority of Morimons, taking the county and city together.

Mr. VAN COTT. Could you give us an idea——

Mrs. COULTER. I can not give you the exact figures.

Mr. VAN COTT. In the year 1904 did you take any interest in politics?

Mrs. COULTER. Somewhat.

Mr. VAN COTT. In the general election?

Mrs. COULTER. I did a little speaking during the campaign, and served as president of the Weber County Women's Republican Club.

Mr. VAN COTT. Just briefly, what did you do in that position toward getting Democratic votes or keeping your Republican votes?

Mrs. COULTER. My efforts were not directed toward getting Democratic votes, because I realized full well that if we could only get all our Republicans out it was not necessary to proselyte. For that reason my efforts were directed toward interesting the women of the county on the national questions, and in securing their interest in registering and in going to the polls to deposit their ballots.

Mr. VAN COTT. Did you increase the membership of the Republican women's clubs in Weber County?

Mrs. COULTER. Very largely, and largely perhaps through the help of the Mormon women, who have been very loyal to me in all my work in that State. The membership of the club was 50 when I took hold of it. Within two weeks it had increased to 250.

Mr. VAN COTT. Is it anything unusual Mrs. Coulter, in your experience there, to find that men are Democrats and their wives Republicans, and working for the advancement of the Republican cause?

Mrs. COULTER. That is frequently the case, and what surprises me, it is true among illiterate people. I have found that to be the case in my work in the different county precincts.

Mr. VAN COTT. To some extent did you work right down with the voters, or was it more in the way of organizing and supervision?

Mrs. COULTER. More in the larger sense of organization and supervision, and the immediate direction of a great deal of the work came from me.

Mr. VAN COTT. Have you had any occasion to travel over the State of Utah.

Mrs. COULTER. I have.

Mr. VAN COTT. In what way?

Mrs. COULTER. Not on political work, but as president of the State Federation of Women's Clubs.

Mr. VAN COTT. How much of the State, for instance, have you covered?

Mrs. COULTER. I have covered the most populous portions of the State. In fact, I have visited frequently in the larger settlements, and have been in all of the counties with the exception of the county in the extreme northeast, Uintah, I think, and the southern tier of counties.

Mr. VAN COTT. Did you come in contact with the Mormon people?

Mrs. COULTER. Constantly.

Mr. VAN COTT. What is their sentiment as to polygamy since the manifesto?

Mrs. COULTER. It has always seemed to me that they were desirous of doing away with it. At least, their polygamous relations were never flaunted in my presence, nor were their wives or polygamous families introduced. It seemed to me that there was a feeling of humiliation always, and that certainly would lead to doing away with the objectionable features.

Mr. VAN COTT. Taking the younger Mormons particularly, what did you find to be their sentiment in regard to polygamy?

Mrs. COULTER. I believe them to be strongly opposed to polygamy.

Mr. VAN COTT. How did you find the Mormon people in your work politically, as to whether or not they were independent?

Mrs. COULTER. I have never discovered that they were dictated to, other than perhaps by political bosses, just as other people are dictated to at times.

Mr. VAN COTT. And influenced?

Mrs. COULTER. Yes.

Mr. VAN COTT. I suppose you have tried to influence them?

Mrs. COULTER. We certainly have. That was the object of our organization, to influence them to work for our party and with our party.

Mr. VAN COTT. Taking the offices, elective and appointive, in Ogden City and Weber County, what would you have to say as to whether the gentiles have had fair representation?

Mrs. COULTER. From my observation I consider that the Gentile element there is very fairly represented. In our present legislature we have two representatives who are Mormons, two who are not Mormons, and one Mormon senator, and one Gentile senator; and the other offices are equally fairly represented.

Mr. VAN COTT. Going back to Ogden City, and calling your attention particularly to the conditions that have existed there in the last four or five years, at least, is there any discussion there, is it constantly on the surface, as to who is a Mormon and who is a Gentile, or is no prominence given to that matter?

Mrs. COULTER. There is very little prominence given to the matter. In fact, I was urged quite as strongly by Gentiles to vote for Senator Smoot as I was by the Mormon people. In fact, it seems to me that the tendency of the tide of progress is toward a rapid but sure eradication of the old conditions. The West is a rapid-moving, fast-growing country and we are bound to overcome those things in time.

Mr. VAN COTT. And socially, is there any sharp line drawn, or do they intermingle—all the classes that you know of?

Mrs. COULTER. They intermingle; although I must say that the objectionable features of the Mormon Church, which have been dwelt upon in this committee, the feature of polygamy especially, probably meets with just as strong opposition in Ogden City as it does here in Washington and in this committee. But those of us who have witnessed the old-time antagonisms and who are living and working for the new growth and progress, do not believe in inquisitorial methods. We believe that the work of education, the establishment of industries, the developing of the mining regions, the building of railroads especially, and the influx of people owing to the colonization schemes which are succeeding there, will, in time, eradicate all of the old and objectionable conditions.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. How long have you lived in Utah, Mrs. Coulter?

Mrs. COULTER. Since July, 1889.

Mr. TAYLER. How long have you been interested in public affairs there?

Mrs. COULTER. Ever since I was made a citizen by the franchise in the constitution.

Mr. TAYLER. When was that?

Mrs. COULTER. When we were admitted as a State, in 1896.

Mr. TAYLER. Have you been rather active since then?

Mrs. COULTER. I have been active since then; not previously.

Mr. TAYLER. Have you been especially active and interested in public affairs?

Mrs. COULTER. I believe I may be regarded to have been so.

Mr. TAYLER. You have been one of the most active of your sex in your county?

Mrs. COULTER. In my own county probably as interested as any citizen there.

Mr. TAYLER. You have had a real and an abiding interest in those things since you first were made, in that sense, a citizen?

Mrs. COULTER. I have; because I regarded it as my duty to have an interest and to work to the best of my ability.

Mr. TAYLER. And has your interest covered the whole State during that time?

Mrs. COULTER. In legislation; yes, sir.

Mr. TAYLER. Well, in a general way, in the politics of Utah.

Mrs. COULTER. I have been interested in the entire State, although I never have traveled south in the State campaign work.

Mr. TAYLER. How long have you been traveling over the State?

Mrs. COULTER. My travel over the State has been in the club work especially.

Mr. TAYLER. And how long?

Mrs. COULTER. For four years—from 1899 to the close of 1903.

Mr. TAYLER. Are those the Republican clubs?

Mrs. COULTER. No; the literary organization known as the State Federation of Women's Clubs.

Mr. TAYLER. During all that period, within, of course, proper limits or such limitations as would be put upon a woman who was interested in it, you have been active and interested and informed on political conditions in the State?

Mrs. COULTER. I have.

Mr. TAYLER. When did you first hear of Senator Smoot as a public man?

Mrs. COULTER. I first heard of him before Statehood—about that time, 1895 or 1896.

Mr. TAYLER. And you constantly heard of him up until 1903, was it, when you voted for him?

Mrs. COULTER. Yes, sir.

Mr. TAYLER. You did not feel well enough acquainted with him and with his public career to vote for him until you had written to a large number of people in Provo and asked about him?

Mrs. COULTER. Hardly, because I had not a close personal acquaintance. He was not a citizen of my county, and I felt that the people of his own town, Provo, would know more about his public life and acts than I.

Mr. TAYLER. Undoubtedly.

Mrs. COULTER. And it would be well to learn directly rather than to take hearsay.

Mr. TAYLER. For that reason you prosecuted this inquiry in good faith, and as elaborately as you thought the subject merited?

Mrs. COULTER. I did.

Mr. TAYLER. When the legislature convened, or prior to that time, at any rate when you came to vote for him and when you were making these inquiries, I gathered—I was not sure that I heard accurately—that he was the only candidate seriously in the contest?

Mrs. COULTER. He was. You would have felt that, Mr. Tayler, had you gone out in the campaign. Wherever I spoke the pressure was for Senator Smoot.

Mr. TAYLER. Exactly.

Mrs. COULTER. After I took the stump there was not a locality that people did not say to me "We have been looking forward to this." It was generally accepted.

Mr. TAYLER. So that all through the speaking campaign prior to the election of the members of the legislature, it was recognized that he was really the only candidate in the field?

Mrs. COULTER. Not the only candidate—

Mr. TAYLER. The only real candidate.

Mrs. COULTER. But a large proportion of people were urging his candidacy.

Mr. TAYLER. And there did not seem to be any doubt of his election?

Mrs. COULTER. I do not know about that. I think probably there was doubt. There is always doubt until a man is elected.

Mr. TAYLER. That is all.

The CHAIRMAN. You say you frequently heard the expression "We have been looking forward to this," speaking of Mr. Smoot's election?

Mrs. COULTER. Yes, sir.

The CHAIRMAN. By whom was this expression made?

Mrs. COULTER. By a great many of his friends who knew that on a previous occasion he had resigned in favor of a friend, and they were looking for the opportunity of placing him where they desired him to be.

The CHAIRMAN. Was this in Mormon or Gentile communities?

Mrs. COULTER. In both. A great many Gentile people of Ogden were decidedly pleased with the candidacy of Senator Smoot.

The CHAIRMAN. Was it in localities which were Mormon where you heard the expression that they had been looking forward to this?

Mrs. COULTER. Not altogether. Those who were interested in politics doubtless were looking forward to it, Gentiles as well as Mormons.

The CHAIRMAN. But there were such expressions among the Mormon people? I suppose they were not hostile to him?

Mrs. COULTER. I think not.

The CHAIRMAN. Now, one other question. You have been over the State some in your duties as an advocate of Republican doctrines, and you say you have met polygamists in their homes?

Mrs. COULTER. I can not say that I have, but from the figures given here to-day it must be that I certainly have been entertained in such homes.

The CHAIRMAN. I want to inquire as to whether, at the time when

you were going through the State, you had occasion to visit homes where the occupants were polygamists?

Mrs. COULTER. Where they were reputed to be.

The CHAIRMAN. How many cases were there of that kind? Was it pretty general, or were there only a few?

Mrs. COULTER. Only a few. It was exceptional. I can not recall just now.

The CHAIRMAN. You say the young Mormons are against polygamous cohabitation and the practice of polygamy. What steps have they taken to stop it, as a body?

Mrs. COULTER. I can not say that they have taken any steps, but it would be quite unnatural, it seems to me, for children to take steps to prosecute their parents.

The CHAIRMAN. I asked you what steps had been taken, if any. You do not know of any?

Mrs. COULTER. I do not know of any.

The CHAIRMAN. Do you know of the younger Mormons appealing to the president of the church to abandon the practice?

Mrs. COULTER. I do not, although such appeals might have been made without my knowledge.

The CHAIRMAN. Yes, of course; but you do not know of any such appeals?

Mrs. COULTER. I do not.

The CHAIRMAN. Was Mr. Smoot, at the time he was elected Senator, then a member of the twelve apostles?

Mrs. COULTER. He was; that is, he was reputed to be.

The CHAIRMAN. Were you aware of that fact?

Mrs. COULTER. I was aware of that fact.

The CHAIRMAN. Were you aware of the fact at that time that the president of the church was living in polygamy?

Mrs. COULTER. I was not.

The CHAIRMAN. And that the apostles with whom Mr. Smoot was connected, a majority of them, were living in polygamy?

Mrs. COULTER. I did not know that fact. There were such rumors.

The CHAIRMAN. Would it have made any difference with your vote if you had known that the president of the church at that time, and a majority of the apostles, were living in polygamy, and Mr. Smoot was one of that body? Would it have made any difference in your vote?

Mrs. COULTER. I can not say as to that.

The CHAIRMAN. What would be your judgment about it?

Mrs. COULTER. Possibly with Mr. Smoot as a candidate it would have made no difference with my vote, for this reason: Many gentiles in Utah welcomed the opportunity of proving, in an efficient and practical way, to our Mormon friends that we were not generally antagonistic to Mormonism, but that our antagonism was directed altogether toward the church doctrine which in Utah is known as the principle of polygamy—something a great many of us are not able to understand, the principle of polygamy. The two words do not seem to be at all consistent; and in supporting the candidacy of Senator Smoot it was the feeling of many of us that we were saying substantially to the Mormon people: "If you will put up a good clean man who does not advocate nor practice polygamy we will sustain him, irrespective of wide church differences or religious differences." The thought

was that if the Mormon people will put up a representative, up-to-date, enterprising, capable man, who is fairly well qualified, we will support him, but we will not support polygamists.

The CHAIRMAN. Then you would not have supported the president—

Mrs. COULTER. This is substantially my reason for voting for Senator Smoot. I have been asked many times, and I probably would not have given it had I not been pressed by this committee.

The CHAIRMAN. I am glad of the answer, madam. I understand, then, from your statement, that you people would not have voted for the president of the church or the six apostles who are polygamists?

Mrs. COULTER. Most decidedly not.

The CHAIRMAN. Why not?

Mrs. COULTER. Because of the active practice. There are many of the younger men, like Senator Smoot, who discountenance this whole thing. It may be hard for a man to get up and say it, but within his own soul I do not believe he is advocating this practice.

The CHAIRMAN. You know the practice of what is called in the conferences sustaining the head of the church and others?

Mrs. COULTER. The practice of—I beg your pardon.

The CHAIRMAN. Sustaining at the conference. Do you know anything about that?

Mrs. COULTER. Just what I have learned here during the few days that I have been observing the progress of this trial.

The CHAIRMAN. You would not vote for a polygamist?

Mrs. COULTER. Most decidedly not.

The CHAIRMAN. What would you think of one who would vote for a polygamist to make him an apostle?

Mrs. COULTER. I can scarcely sit in judgment on that question.

The CHAIRMAN. No, I suppose not. I will not press it. I have no further questions.

Mr. WORTHINGTON. Mrs. Coulter, I understood the chairman to assume that you had said the young Mormons were opposed to polygamous cohabitation. I understood you to say that all the people, or the great majority of the people in Utah, including the young Mormons, were strongly opposed to any new polygamous marriages. That is what you said, was it not?

Mrs. COULTER. I believe them to be, and it is very difficult, unless one lives there and dispassionately observes the situation, to solve some of the problems. As I have already stated, and I will reiterate, we do not believe that inquisitorial methods are going to eradicate what we term the evil.

Mr. WORTHINGTON. Then, another thing I think you should be asked. You stated that in going around the State you had on a few occasions, I think, stopped at the houses of polygamists. So far as you know, were they living with their legal wives when you stopped with them?

Mrs. COULTER. I inferred so, because no polygamous wives were ever brought forth at that time.

The CHAIRMAN. In asking that, Mr. Worthington, I had no intention of reflecting at all on this lady. I was simply endeavoring to ascertain the extent to which that crime existed.

Mr. WORTHINGTON. I understand, Mr. Chairman. That is, you

never stopped with a polygamist, knowing that he was living with a woman who was not his wife according to the law?

Mrs. COULTER. I did not.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mrs. W. H. Jones.

TESTIMONY OF MRS. W. H. JONES.

Mrs. W. H. JONES, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. Is your name Mrs. W. H. Jones?

Mrs. JONES. Yes, sir.

Mr. VAN COTT. Where do you live at the present time?

Mrs. JONES. In Salt Lake City.

Mr. VAN COTT. Were you born there?

Mrs. JONES. I was not.

Mr. VAN COTT. Where were you born, Mrs. Jones?

Mrs. JONES. I am a native of Canada.

Mr. VAN COTT. And on your mother's side?

Mrs. JONES. My mother was a New York woman.

Mr. VAN COTT. Were you educated principally in the United States or in Canada?

Mrs. JONES. Well, what little education I have had—I married when I was a girl of 16—I received in Canada and in New York State.

Mr. VAN COTT. And finally you went to Utah?

Mrs. JONES. In May of 1871, a bride.

Mr. VAN COTT. Where have you resided since?

Mrs. JONES. In Salt Lake City, with the exception of the few trips that I would take east and west.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mrs. JONES. I do not.

Mr. VAN COTT. Have you ever?

Mrs. JONES. I never have.

Mr. VAN COTT. Do you belong to any church?

Mrs. JONES. I do.

Mr. VAN COTT. Which one.

Mrs. JONES. The First Methodist Church of Salt Lake City.

Mr. TAYLER. We all congratulate the counsel and the witness.

Mr. VAN COTT. When you went to Utah did you take any interest in the Liberal party?

Mrs. JONES. I did.

Mr. VAN COTT. Was that active, or just in belief?

Mrs. JONES. Why, I did all in the world I could for the Liberal party. I at that time thought a Mormon ought not to live.

Mr. VAN COTT. That is the way you felt then?

Mrs. JONES. That is the way I felt then.

Mr. VAN COTT. And it came along to the manifesto and the division on party lines?

Mrs. JONES. When they divided on party lines?

Mr. VAN COTT. I say you went right along in that condition until the manifesto and the division on party lines?

Mrs. JONES. I did, as a Liberal.

Mr. VAN COTT. In the division on party lines, did you then belong to any political party?

Mrs. JONES. I took sides with the Republican party. I became a Republican.

Mr. VAN COTT. And you have been since.

Mrs. JONES. I have been since---an ardent one.

Mr. VAN COTT. Have you held any political office?

Mrs. JONES. How do you mean political office?

Mr. VAN COTT. I mean any elective office.

Mrs. JONES. Why, simply in the Woman's Republican Club.

Mr. VAN COTT. Well, that is not elective. That is just an organization of the Republican party.

Mrs. JONES. We elect each other. That is all.

Mr. VAN COTT. What position did you hold that way?

Mrs. JONES. Mr. Van Cott, I went to Philadelphia as an alternate to the Republican convention.

Mr. VAN COTT. Did you have anything to do with the women's Republican clubs?

Mrs. JONES. I have.

Mr. VAN COTT. What position did you hold with them?

Mrs. JONES. I was elected president in 1899, and I was again elected to succeed myself in 1900. Then I was an active member until January of 1904, when I was elected president for that year.

Mr. VAN COTT. And that was in Salt Lake City?

Mrs. JONES. That was in Salt Lake City.

Mr. VAN COTT. Would that cover all of the women's clubs in Salt Lake County, or in Salt Lake City?

Mrs. JONES. Why, in Salt Lake City, although I have written to the chairmen of every county through the State asking them to organize women's Republican clubs.

Mr. VAN COTT. In Salt Lake City have you simply been connected with the organization and supervision, or have you also worked with the voters?

Mrs. JONES. I have worked right down with the voters, as well as organizing.

Mr. VAN COTT. Now, taking the last campaign, did you appoint women in the different precincts in Salt Lake City to take charge of matters?

Mrs. JONES. I did. In the first precinct I think I visited every district in that precinct, and a great many districts in the third, in the second, and in the fifth, where I lived.

Mr. VAN COTT. Did you have these different women appoint women under them to work?

Mrs. JONES. I usually did the appointing myself of the women that were to work, and of course asked them to get all they could to assist them.

Mr. VAN COTT. How many woman did you have working in the last campaign in Salt Lake City?

Mrs. JONES. Oh, my, I could not tell you.

Mr. VAN COTT. You could not tell?

Mrs. JONES. All I could get.

Mr. VAN COTT. Did you give any instructions to these women or request them as to how many votes each one was to get, at least?

Mrs. JONES. Well, in connection with Judge Miner, when he appointed a committee of 5 I was one of that committee of 5; and if I remember just correctly we were to find 20 ladies in each precinct who would each secure 5 votes. I am not certain about the number, but I did not confine myself to that, you see. Being president of the club I did all the work I could. I got all the votes I could. I turned all the Mormon Democrats and all the Gentile Democrats and all the doubtful ones that I possibly could. I got all I could for the Republican ticket.

Mr. VAN COTT. You never let one escape?

Mrs. JONES. Not if I knew it. [Laughter.]

Mr. TAYLER. For instance, did you work with men to get them to vote the Republican ticket?

Mrs. JONES. My work was principally with women, but I have talked with men.

Mr. VAN COTT. To convert them?

Mrs. JONES. Yes.

Mr. VAN COTT. In this work you have done in this close way around among the voters, I would like your opinion as to the independence of the Mormon voters in politics.

Mrs. JONES. I have never seen anything else. When I would visit a woman and ask her to work, of course I never asked her what her religion was. I simply got Mormons and Gentiles alike, and the Mormon women have worked as faithfully for me as the Gentile women. In fact, I think more so. Some of them have said that they have been waiting for me to give them instructions.

Mr. VAN COTT. What have you observed about the constancy of Mormon voters in adhering to their party lines?

Mrs. JONES. In looking over the districts, after the election—now, you take the Sixth Ward, for instance; that is a Mormon stronghold; I have found that the Gentile candidates would always hold their own in that district with the Mormons, but I am sorry that I can not say so in my own precinct.

Mr. VAN COTT. And in traveling around, as you have, what have you discovered to be the sentiment of the Mormon people in regard to the practice of polygamy? By that I mean the contracting of polygamous marriages since the manifesto in 1890?

Mrs. JONES. I have talked to a great many. I have traveled over the State a great deal with my husband in his business, and in our outings, and I have talked with a great many, especially of the younger Mormons, on that subject. They have been very much opposed to it. In fact, some of them have said to me that they would like to be called on a jury.

The CHAIRMAN. Like to be what?

Mrs. JONES. Called on a jury, to convict a man who might be arrested for going into polygamy since the manifesto.

Mr. VAN COTT. Do you know Mr. Smoot?

Mrs. JONES. I do.

Mr. VAN COTT. Personally?

Mrs. JONES. Yes; I think I do.

Mr. VAN COTT. How long have you known him?

Mrs. JONES. Politically, I have known him quite a while. I can not state the exact time.

Mr. VAN COTT. Do you happen to know whether he went with the Silver Republicans at the time they voted with the Democrats in Utah?

Mrs. JONES. I think he had more sense.

Mr. VAN COTT. By that I judge you did not go with the Silver Republicans.

Mrs. JONES. I did not.

Mr. VAN COTT. You stay right with your party all the time?

Mrs. JONES. I do, if they put up good men.

Mr. VAN COTT. Was Mr. Smoot prominent in politics before he became Senator?

Mrs. JONES. I think he was. I think the first time I ever saw Mr. Smoot was in a Republican convention.

Mr. VAN COTT. What is your opinion as to whether Mr. Smoot would have been elected United States Senator if he had not been an apostle?

Mrs. JONES. I do not think that would have made any difference. I consider that Senator Smoot, as far as my investigation has gone, and as far as I know, was elected by Gentiles and Mormons alike. I know that when it comes to elections some of my intimate friends have said, on a local ticket, "I am going to scratch so and so," and I have always strictly talked to them about scratching the legislative ticket, and told them not to do so, that they must vote the legislative ticket.

Mr. VAN COTT. That has been your teaching?

Mrs. JONES. Those are my sentiments. That is my teaching, because I was very much opposed to a Democratic Senator.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. Are you often a delegate to conventions, Mrs. Jones?

Mrs. JONES. Quite often, Mr. Tayler.

Mr. TAYLER. You were a delegate to the city and county convention that nominated Mr. Whittaker?

Mrs. JONES. Whittaker?

Mr. TAYLER. Whittaker; or where he was a candidate for judge?

Mrs. JONES. That was this last convention. Mr. Whittaker is a city judge.

Mr. TAYLER. Yes.

Mrs. JONES. I was. He is a city judge.

Mr. TAYLER. Did you make a speech in that convention?

Mrs. JONES. I did.

Mr. TAYLER. Did you charge a combination there between the Mormons and some of the other Republicans?

Mrs. JONES. I did not.

Mr. TAYLER. Did you, if I may use such a term respecting a woman, roast the convention for what it did?

Mrs. JONES. Oh, I could not do that, Mr. Tayler. [Laughter.]

Mr. TAYLER. Did you disapprove of its action in a public speech.

Mrs. JONES. I think I did. I seconded the nomination of an old soldier, and because he was an old soldier. I thought that everything else should be turned aside and he elected. For the time being I was angry.

Mr. TAYLER. You were angry?

Mrs. JONES. I was angry.

Mr. TAYLER. Was there no reference to a deal that Mr. Whittaker and his friends had made with the Mormons?

Mrs. JONES. Not at all. I knew of no deal.

Mr. TAYLER. You were also a delegate to the district judicial convention last year?

Mrs. JONES. I do not know. What time was that?

Mr. TAYLER. When H. S. Tanner was a candidate.

Mrs. JONES. I was not.

Mr. TAYLER. Did you express yourself about that convention?

Mrs. JONES. I was not there.

Mr. TAYLER. No; I understand you say you were not present; but I suppose you exercise the double right that you have, being both a woman and a politician, to express your views about it?

Mrs. JONES. I do not consider I am a politician. I do not remember of expressing any view to that convention at all; but if I had been in the convention, and H. S. Tanner up for nomination, I would have voted against him, even though he would be a Republican.

Mr. TAYLER. Did you not frequently express your strong disapproval of the combination of one of the Gentile candidates with H. S. Tanner, a Mormon candidate, in the effort to secure the Mormon vote?

Mrs. JONES. That was so stated. I did not know whether he did or not. He told me personally he did not.

Mr. TAYLER. That he did not what?

Mrs. JONES. That he did not have any combination with Tanner.

Mr. TAYLER. That was before he told you that you disapproved of it?

Mrs. JONES. I did. I would disapprove of anything of the kind.

Mr. TAYLER. Do I understand you did disapprove of it?

Mrs. JONES. There was a rumor that a young man had made a combination with Tanner, or, as you might call it, an exchange—that his delegates would vote for Mr. Tanner if Mr. Tanner's delegates would vote for him. This was rumored. Whether it was true or not, I do not know.

Mr. TAYLER. Mr. Tanner was that kind of a Mormon that you would not vote for, though a Republican?

Mrs. JONES. Though a Republican, because he was reputed to be a polygamist, although I do not know the man by sight.

Mr. TAYLER. Would the Gentiles generally refuse to vote for a polygamous Mormon?

Mrs. JONES. I think they would—all my acquaintance that I know of.

Mr. TAYLER. So the support that a polygamist Mormon would have would be almost altogether Mormon, would it not?

Mrs. JONES. I can not say as to that. I do not think a polygamist could be elected, it being known he was a polygamist, either by Mormons or Gentiles.

Mr. TAYLER. I suppose you felt that the election of Mr. Tanner as judge would be offensive to the good people of the city?

Mrs. JONES. I think it would to anyone—a polygamist.

Mr. TAYLER. Was he nominated?

Mrs. JONES. I think not. I was not at the convention, but I do not think he was. I can not recall that because I was not there.

Mr. TAYLER. He is not a judge now?

Mrs. JONES. He is not.

Mr. TAYLER. That is all.

The CHAIRMAN. Mrs. Jones, I understood you to say that the senti

ment was such that in your judgment a known polygamist could not be elected to office?

Mrs. JONES. I do not think he could.

The CHAIRMAN. How did Mr. Roberts get elected?

Mrs. JONES. Of course I was not working for Mr. Roberts, and I knew nothing about that at that time. That was a good many years ago, or a few years ago.

The CHAIRMAN. How many years ago?

Mrs. JONES. I can not tell you, but I was very glad that you did not allow Mr. Roberts to take his seat, because he was a polygamist.

The CHAIRMAN. I have no doubt; but he was a polygamist and was elected, was he not?

Mrs. JONES. Yes.

The CHAIRMAN. Counsel asked you if the sentiment in Utah, and among the Mormons, was against the formation of new marriages since the manifesto?

Mrs. JONES. I think it is. In fact, I know it is, as far as I have investigated.

The CHAIRMAN. What is the sentiment in Utah about the president of the church living with his five women in polygamous cohabitation?

Mrs. JONES. Mr. Chairman, I have never discussed that with my friends. In fact, I never had thought of it until I saw that the president of the Mormon Church had given evidence before this committee.

The CHAIRMAN. You did not know it until then?

Mrs. JONES. Why, I had never thought of it. I knew years ago, of course, that he was, but we simply had thought nothing about it. I do not think this committee understand the situation existing there. We had simply not thought of it at all, as the president of the Mormon Church did not come in contact with me or I with him, either socially or in any other way. We had not thought of it until he had given his evidence before this committee, and we were horrified. It brought it to our attention.

The CHAIRMAN. You do not agree with Mr. Smith that the matter was condoned?

Mrs. JONES. I do not. I think it is simply tolerated. I think that with the passing away of the old people who are now living in polygamy, polygamy will die out.

The CHAIRMAN. As president of the church, what do you think his influence would be if he were to abandon the practice himself and compel the apostles and others to abandon it? Would that hasten the decay of polygamy?

Mrs. JONES. I do not quite understand that, Mr. Chairman.

The CHAIRMAN. Suppose the president of the church should abandon his polygamous relations, and, as president of the church, advise his apostles and all the membership of the church to follow his example; would that tend to hasten the destruction of polygamy?

Mrs. JONES. I think that would be the end of it, of course.

The CHAIRMAN. You think that would be the end of it?

Mrs. JONES. I think that would be the end of it.

The CHAIRMAN. Then it is perpetuated now because the leaders of the church practice it?

Mrs. JONES. I do not know that it is being perpetuated. I think the leaders of the church, as they are living in it, as I understand it.

I did not know that any others had gone into polygamy until I read it in the evidence here, and I was very much surprised.

The CHAIRMAN. They have continued to live in polygamy?

Mrs. JONES. I think the supposition was that the old church people—that is, the president of the Mormon church and John Henry—were living with their polygamous wives.

The CHAIRMAN. Then without any direction from the head of the church in relation to it, it will continue, in your judgment, until these leaders die?

Mrs. JONES. I do not know as to that. I think the president of the Mormon church and John Henry will possibly live with their polygamous wives unless they are made not to. That I do not know.

The CHAIRMAN. That is all.

Mr. VAN COTT. Mrs. Jones, in the last Republican State convention do you know of the circumstance of David H. Cannon being nominated as one of the Republican presidential electors, and that shortly after the convention adjourned, or before it adjourned, it was discovered that he was a polygamist, and his name was removed from the ticket and Judge Miner's name substituted?

Mrs. JONES. I heard something of it, but I do not know. I was not a member of the State convention.

Mr. VAN COTT. That is all.

The CHAIRMAN. Mrs. Jones, you may be excused. Who is your next witness, gentlemen?

Mr. VAN COTT. Mr. Chairman, that is all we have for to-day. We undertook to economize for the Government by distributing our witnesses along, and we have made greater headway than we anticipated. For that reason we have no more witnesses to-day. We expect some this afternoon and evening.

The CHAIRMAN. You will not be able to call anyone to-day?

Mr. VAN COTT. No, sir.

The CHAIRMAN. The committee will stand adjourned until to-morrow at 10 o'clock.

The committee (at 4 o'clock and 25 minutes p. m.) adjourned until Friday, January 20, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 20, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Knox, and Dubois; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. The Chair is advised that Mr. Worthington is detained downtown and the committee will await his coming.

After a short delay Mr. Worthington entered the committee room.

Mr. WORTHINGTON. Mr. Chairman and gentlemen, I wish to make an apology and explanation as to my being so late this morning. The witnesses whom we have been expecting have not yet arrived, and Mr. Van Cott and I thought we would ask the committee to adjourn to-day on that account. But in order to save a day we concluded that we would put Senator Smoot upon the stand at once. That necessitated my going over some matters with him, as to which I have had

no opportunity to talk with him. We are now ready to go on, and I shall put him on the stand.

I would suggest, Mr. Chairman, that while we have proceeded, by general consent, with much less than a quorum of the committee, it may be that if the members of the committee who are not here now knew that Senator Smoot was about to go upon the stand they might wish to be present to hear his examination. I suggest that word be sent to them that he will be upon the stand, so that, if they desire, they may be here.

THE CHAIRMAN. The Chair has been authorized by the absent members of the committee to count them for the purpose of making a quorum, which the Chair has done; but the Chair will take very great pleasure in sending for all the members of the committee who are not present.

After a little delay Mr. Dillingham, Mr. Hopkins, Mr. Foraker, Mr. Pettus, and Mr. Bailey entered the committee room.

THE CHAIRMAN. A quorum of the committee is present.

TESTIMONY OF REED SMOOT.

REED SMOOT, being duly sworn, was examined, and testified as follows:

MR. WORTHINGTON. Senator, when were you born?

Senator SMOOT. January 10, 1862.

MR. WORTHINGTON. Where?

Senator SMOOT. In Salt Lake City.

MR. WORTHINGTON. Have you lived in Utah ever since your birth?

Senator SMOOT. I have.

MR. WORTHINGTON. It has been your place of residence?

Senator SMOOT. It has.

MR. WORTHINGTON. Give us the names of your parents, please?

Senator SMOOT. My father's name was Abraham O. Smoot. My mother's name was Anne K. Smoot.

MR. WORTHINGTON. Both of your parents were Mormons, I believe?

Senator SMOOT. They were.

MR. WORTHINGTON. And I believe that your mother was a plural wife of your father?

Senator SMOOT. She was.

MR. WORTHINGTON. Is your father living?

Senator SMOOT. He is dead.

MR. WORTHINGTON. About when did he die?

Senator SMOOT. In 1895.

MR. WORTHINGTON. Is your mother living?

Senator SMOOT. She is also dead.

MR. WORTHINGTON. And she died when?

Senator SMOOT. She died in 1896.

MR. WORTHINGTON. Are you yourself a member of the Mormon Church?

Senator SMOOT. I am.

MR. WORTHINGTON. And have you been since you attained years of discretion?

Senator SMOOT. I have.

MR. WORTHINGTON. Are you a married man?

Senator SMOOT. I am.

Mr. WORTHINGTON. When were you married?

Senator SMOOT. On September 17, 1884.

Mr. WORTHINGTON. And to whom?

Senator SMOOT. Alpha M. Eldredge.

Mr. WORTHINGTON. Have you lived with her in the relation of husband and wife since that time?

Senator SMOOT. I have.

Mr. WORTHINGTON. Have you children by her?

Senator SMOOT. I have.

Mr. WORTHINGTON. How many?

Senator SMOOT. I have six children by her—three girls and three boys.

Mr. WORTHINGTON. Have you at any other time married any other woman?

Senator SMOOT. I have not.

Mr. WORTHINGTON. Have you at any other time cohabited with any other woman in the relation of husband and wife—

Senator SMOOT. I have not.

Mr. WORTHINGTON. Or in any other way?

Senator SMOOT. I have not.

Mr. WORTHINGTON. When you were married to your wife, were you married according to what is known here as the celestial ceremony?

Senator SMOOT. I was.

Mr. WORTHINGTON. Not in the temple?

Senator SMOOT. In the temple at Logan.

Mr. WORTHINGTON. Did you at that time pass through the ceremony which is called taking the endowments?

Senator SMOOT. No, sir; I did not.

I will state, however, that I took the endowments before.

Mr. WORTHINGTON. I was just about to ask you that question. When?

Senator SMOOT. In the early spring of 1880.

Mr. WORTHINGTON. You were then 18 years old?

Senator SMOOT. I was then 18 years old.

Mr. WORTHINGTON. Perhaps, as that is a matter to which some importance is attributed here, you might tell us how it came that you took your endowments at that early age?

Senator SMOOT. My father was going to visit the Sandwich Islands for his health, and he asked me to go with him. I of course was very pleased, indeed, to accept the invitation, and before going my father asked me if I would go to the endowment house and take my endowments. I told him I did not particularly care about it. He stated to me that it certainly would not hurt me if it did not do me any good, and that, as my father, he would like very much to have me take the endowments before I crossed the water or went away from the United States.

Mr. WORTHINGTON. Have you lived in Provo since your birth?

Senator SMOOT. No, sir.

Mr. WORTHINGTON. How long did you continue to live there after you were born, in 1862?

Senator SMOOT. I lived in Salt Lake City from my birth until 1872, and then moved to Provo, and I have lived in Provo ever since.

Mr. WORTHINGTON. Since you attained your manhood have you been engaged in any business?

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. Tell us in a general way in what business or businesses you have been engaged from the beginning to the present time.

Senator SMOOT. I have been in the mercantile business, in the woolen-mill business, in the banking business. I have been in the cattle business, and in the sheep business, and in the mining business.

Mr. WORTHINGTON. Have you at any time held any office or offices in the church? If so, tell us what they were, beginning with those first in the order of date.

Senator SMOOT. The only particular office that I ever held in the church was that of counselor to Edward Partridge in the Utah stake of Zion, and I was appointed as such in April, 1895.

Mr. WORTHINGTON. He was president of that stake?

Senator SMOOT. He was president of Utah stake. I was his counselor for five years, and I was appointed one of the twelve apostles in April, 1900.

Mr. WORTHINGTON. I think it has already appeared that that is the day on which Joseph F. Smith's last child was born.

Senator SMOOT. Yes; I believe he so testified before the committee.

Mr. WORTHINGTON. In taking any of these offices, did you again have occasion to take the endowments?

Senator SMOOT. I did not.

Mr. WORTHINGTON. Have you ever been through that ceremony except on the one occasion when you were about 18 years of age?

Senator SMOOT. I have not.

Mr. WORTHINGTON. Have you held any civil offices except the one which you now hold—a Senator of the United States?

Senator SMOOT. Only the one as a trustee of the Territorial insane asylum at Provo, appointed by Governor West. That is the only special office I ever held or ever wanted to hold.

Mr. WORTHINGTON. Did you take any oath or obligation when you became an apostle?

Senator SMOOT. I did not.

Mr. WORTHINGTON. Do you recall the ceremony or parts of the ceremony through which you went when you took your endowments?

Senator SMOOT. I could not remember it if I wanted to.

Mr. WORTHINGTON. Do you mean that you do not remember anything about it or that your recollection is vague?

Senator SMOOT. I have not enough of the details to give the committee any information.

Mr. WORTHINGTON. Tell me whether or not at that time anything of this kind took place—that somebody said this which I am about to read, in substance, and that you assented to it:

“That you and each of you do promise and vow that you will never cease to importune high heaven to avenge the blood of the prophets upon this nation.”

Senator SMOOT. I did not.

Mr. WORTHINGTON. Was there anything said about avenging the blood of the prophets or anything else on this nation or on this Government?

Senator SMOOT. No, sir.

Mr. WORTHINGTON. Was there anything said about avenging the blood of Joseph Smith, jr., the prophet?

Senator SMOOT. No, sir. And it seems very strange that such a thing should be spoken of, because the endowments have never changed, as I understand it; it has been so testified, and that Joseph Smith, jr., himself was the founder of the endowments. It would be very strange, indeed, to have such an oath to avenge his death when he was alive.

Mr. WORTHINGTON. Now let me ask you whether when you took your oath as a Senator of the United States you took it with any mental reservation?

Senator SMOOT. None whatever.

Mr. WORTHINGTON. And whether there is anything in your past life, either in connection with the church or anything else, which, in the slightest degree, affects your loyalty to your country, as recognized by that oath?

Senator SMOOT. No, sir.

Mr. WORTHINGTON. How did you come to be a candidate for the office of Senator, Mr. Smoot?

Senator SMOOT. I have been rather active in politics—

Mr. WORTHINGTON. Without being too modest on that subject, I wish you would give the committee a general idea of your activities in that direction prior to the time you were an open candidate for the place of Senator.

Senator SMOOT. I may say that before ever there was a division on party lines in the State of Utah I became interested in the principles of the two great national parties. I remember at the time of taking one of the leading Democratic papers and one of the leading Republican papers. It was about 1884, when I became manager of the Provo Woolen Mills.

I thought, of course, at the time that I was a Democrat. My father came from Kentucky. He was a staunch Democrat, and of course I thought I was a Democrat. He believed in protection, and of course it had been taught to me all my life and I believed in it.

But after studying the papers very carefully, indeed, with all the interest that I could, my mind gradually drifted toward the principles of the Republican party.

I think it was in 1888 that there were a few men in Provo, Republicans, and we organized a Republican party. That was before the division on party lines in our State. We used to meet quite often for the purpose of discussing the principles of the party, and I became deeply interested in them and in politics. I was prepared, or felt myself so, when the division on party lines came, to align myself with the Republican party, and I have been a Republican from that time on.

Our county, Utah County, was strongly Democratic. In fact, it was one of the strongest Democratic counties in the State; and we, the Republicans of that county, worked very hard indeed, to change the condition of our county from a Democratic majority to a Republican majority. We sometimes were placed on the ticket, knowing full well that we could not be elected, but we had that fight to make, and we did make it; and I think in 1900 was the first year that we carried Utah County for the Republican party.

I attended most of the conventions, both county and State.

Mr. WORTHINGTON. Of your party, you mean?

Senator SMOOT. Yes. I gave my time and I gave my means for the advancement of that cause. I was an organizer of the southern forces, as they were called, in most of the campaigns, and I did it because I liked it. I enjoyed the work. I think that I have been loyal to it from beginning to end, and for aught I know will continue to be as long as the principles are as they are, and as I believe them to be, the best for this country.

Mr. WORTHINGTON. You say that you organized the southern forces. Just what do you mean by that?

Senator SMOOT. I mean that in the State, Salt Lake is what may be called the central part of our State, and then there is the northern part of our State, and then there is the southern part of the State, and, of course, in the organizations certain interests for that section of our State always came up at the conventions, and we were generally together on any kind of a proposition as to who should be nominated.

Mr. WORTHINGTON. Prior to 1902 had anybody become the recognized leader of the Republican party in the southern part of the State?

Senator SMOOT. Well, I would not want to say that.

Mr. WORTHINGTON. I will not press you on that subject. Others have testified about it. When did you yourself first consider the question of being a candidate for the position of Senator of the United States from Utah?

Senator SMOOT. Oh, I was spoken to by my political friends back as far as 1898, and especially my home town friends, to run for governor or for the Senate.

Mr. WORTHINGTON. Let me interrupt you to ask whether these friends you speak of were Mormons or non-Mormons, or both.

Senator SMOOT. I think they were mostly non-Mormons.

Mr. WORTHINGTON. Just go along, please.

Senator SMOOT. I told them that I did not care about trying to run for an office until we could at least get our county into the proper column, and that is what we had been working for a long time, ever since the division on party lines, and that if the time came and it was proper I should like very much to go to the Senate of the United States. And Mr. Loose, Mr. DeMoisy, and Mr. Homer, and the leading politicians of Provo, and some of Utah County, of course, understood my wishes in that regard and we always worked to that end.

Mr. WORTHINGTON. That was in what year?

Senator SMOOT. In 1898.

Mr. WORTHINGTON. I believe there was a Senator elected from your State in January, 1901?

Senator SMOOT. Yes; he was elected in January, 1901.

Mr. WORTHINGTON. But the legislature which elected the Senator was elected in 1900?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The second McKinley campaign.

Senator SMOOT. It was the 1900 election.

Mr. WORTHINGTON. Did you run for the Senatorship then, or make an effort?

Senator SMOOT. No; I was not an avowed candidate. Mr. Worthington. It was pretty close. We had had the silver craze out our

way, and in 1896 there were very few Republicans left. I think there were only 13,000 votes cast in the whole State.

Mr. WORTHINGTON. You mean 13,000 Republican votes?

Senator SMOOT. Republican votes; but of course we kept the organization together. In 1898 we did not expect to win out in that election at all, on account of the fact that we knew there had not been enough regular Republicans come back to win the State; but they were coming very rapidly.

In 1900 we expected that it would be a very close election, and there was no avowed candidate—that is, in the full sense of the word—during that campaign. But after the election there were a great many candidates. I think there were Mr. McCornick, Mr. Salisbury, and Mr. Kearns, and my friends were pressing me, and I had it under consideration at that time. But I never gave them an assurance that I would run, and before the election of United States Senator in 1900 I published a statement that I would not be a candidate.

Mr. WORTHINGTON. Were these friends who you say urged you to run at that time Mormons or non-Mormons or both?

Senator SMOOT. Both.

Mr. WORTHINGTON. You have not stated directly, although perhaps you have by implication, whether or not you did go off at the time of the silver defection.

Senator SMOOT. No, sir; I did not.

Mr. WORTHINGTON. You stood by your colors in that campaign?

Senator SMOOT. I did.

Mr. WORTHINGTON. Now, come down to the year 1902, and let us know what you did then in the way of allowing your name to be used, and what, if anything, you did to further the successful issue of your candidacy?

Senator SMOOT. Early in the year I concluded that if all things were satisfactory I would be a candidate for the Senate of the United States, and I think it was on May 14, 1902, that I made an announcement that I would be a candidate.

Mr. WORTHINGTON. In what way?

Senator SMOOT. I made it in a meeting. Before I made that announcement, of course, I realized that the rule which had been adopted by the church required me to ask the presidency of the church if they had any objections to my making that run, and if I was elected, whether I could have whatever time was necessary to fill my duties as a Senator of the United States. Or, in other words, I should require a leave of absence, and I wanted it understood that that leave of absence would be such that whatever requirement was made of me as a Senator they would have no objections whatever.

Mr. WORTHINGTON. Right there, to avoid any misapprehension, when you speak of the rule adopted by the church do you refer to the rule which is printed on page 168 of the record in this case?

Senator SMOOT. I do.

Mr. WORTHINGTON. Go on.

Senator SMOOT. That consent was given. I think, sometime in the beginning of May. I could not tell the day, but I know that the announcement was made on the 14th of May, 1902.

Immediately I had my political friends form an organization, and we went into every precinct in our State, and we formed a regular

organization of all of those precincts, and they worked from the primaries to the convention.

The CHAIRMAN. Senator, pardon me. You said consent was given. I did not understand you to say by whom.

Senator SMOOT. The presidency. I asked the president of the church and his counselors at the time.

The CHAIRMAN. The two counselors?

Senator SMOOT. Yes.

Mr. WORTHINGTON. Since that interruption has occurred, I will ask you whether it was a formal application in writing or an informal one verbally.

Senator SMOOT. I went into the office. They were in the office there, at a table where they sit nearly every day, and I presented the proposition to them there.

Mr. WORTHINGTON. Just state the substance of what occurred on that subject as nearly as you can now recall it.

Senator SMOOT. I think the answer already given covers the whole of what was said, with the exception that there may be some details which I do not remember. But the substance is there.

Mr. WORTHINGTON. Did you talk at all to your brother apostles about that matter?

Senator SMOOT. Not at that time.

Mr. WORTHINGTON. Go on. You were telling us that after having this conversation with the presidency you organized your forces.

Senator SMOOT. And we went to work, as I stated before, and the primaries were held, the county conventions were held, and our State convention was held. We saw wherever we could that candidates for the legislature were nominated at those conventions who were favorable to me as Senator, and the organization was just as complete as I could make it. The work was done in that way.

Mr. WORTHINGTON. What was it an organization of? Was it the organization of your party or the organization of your church?

Senator SMOOT. The organization of the Republican party.

Mr. WORTHINGTON. The campaign having opened, I should like to go back and ask you what, if anything, from the time you took part in politics, the church has ever done as a factor in any of the movements to which you were a party?

Senator SMOOT. Not in the least.

Mr. WORTHINGTON. I will ask you whether, at any time, either in your own matter or in reference to other candidates for other offices, so far as you know, the church had anything to do about it, any more than the Presbyterian or the Methodist Church in the State, excepting always what you have told us about asking for leave of absence under the rule?

Senator SMOOT. No man or woman that lives can come and say that I ever asked them to vote the Republican ticket on account of my being an apostle or a Mormon or anything connected with the church. Whatever argument I have made, I have based upon the question of Republican principles and as a Republican.

Mr. WORTHINGTON. Have you yourself in what you have done in that regard from the beginning been dictated to in any wise by the church or any representative of the church?

Senator SMOOT. Not in the least; and I would not be.

Mr. WORTHINGTON. Perhaps that covers it, but I want to ask you

the general question whether in the matter of your being a candidate for the office of Senator from Utah the church had anything to do with selecting you as a candidate or putting you forward?

Senator SMOOT. No, sir; none whatever.

Mr. WORTHINGTON. I will ask you, while each person may have his own view about it, what your view is with respect to the rule published on page 168 of this record about asking for leave of absence; whether or not that in any wise amounted to an indorsement of your candidacy or made you a church candidate?

Senator SMOOT. None whatever; nor do the people believe that it is an indorsement, nor do they understand that it is in any way.

Mr. WORTHINGTON. Let me now in conclusion ask you the same question that I asked Doctor Talmage the other day. Suppose that some measure were pending before the Senate here upon which you are called upon to vote, and the church through its president or in some other way should direct you to vote in a certain way; what would you do?

Senator SMOOT. I would vote just the way that I thought was best for the interests of this country.

Mr. WORTHINGTON. Would any dictation from the church or anybody representing it in the slightest degree guide you in casting your vote?

Senator SMOOT. None whatever; because it is not their business.

Mr. WORTHINGTON. As a matter of fact, has the church or anybody representing the church or purporting to represent the church undertaken in any way to dictate to you or direct you in the performance of your duties as a Senator?

Senator SMOOT. No, sir.

Mr. WORTHINGTON. Would you submit for a moment to any dictation of that kind?

Senator SMOOT. I would not.

Mr. WORTHINGTON. You have spoken of your own case. Let me ask you whether, so far as your knowledge goes, in respect of others, there has been any attempt to use the influence of the church as a church in political matters in your State?

Senator SMOOT. I never heard of it.

Mr. WORTHINGTON. When you became an apostle, which was in April, 1900, I think you said—

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. What was the state of your knowledge as to whether Joseph F. Smith was living in polygamous relations with several wives?

Senator SMOOT. I knew Joseph Smith had more than one wife, but I did not know anything about his relations with them; that is, as to his living with more than one wife.

Mr. WORTHINGTON. Mr. Tayler read from a paper here the other day that certain persons who live in Salt Lake City were greatly surprised when they learned what Mr. Smith had testified to on that subject here. Were you also surprised?

Senator SMOOT. I was surprised as to the number of children he had had born since the manifesto, but I was not surprised at all that he had those wives.

Mr. WORTHINGTON. Let me ask you also the general question as to the other apostles who it appears now were at that time living in

polygamous relations—whether you had any more information as to them than you had as to Joseph F. Smith?

Senator SMOOT. Francis M. Lyman; I never have been in his house in my life. John Henry Smith; I was in his home once, and that was the wife who lived across the road from the temple. I took dinner there one day with him. George Teasdale; I was in his home once, I think in 1892. I stopped there as I was going to Sanpete. I never was in the home of John W. Taylor in my life. I never was in the home of Mathias F. Cowley in my life. I never was in the home of Mariner W. Merrill in my life. I have been in the home of Rudger Clawson once in my life. I was there to a dinner.

Mr. WORTHINGTON. I believe it is not claimed that Rudger Clawson is a polygamist.

Senator SMOOT. No, but I am speaking of all of them.

Mr. WORTHINGTON. Let me ask what you understood from general reputation was the situation in which those men and other members of your church who had entered into polygamy prior to the manifesto of 1890, were?

Senator SMOOT. After the manifesto was issued the Territory was under the direct control of officers of the United States up until statehood.

Mr. WORTHINGTON. That was in January—

Senator SMOOT. It was a Territorial form of government, and the State was admitted in 1896, on January 4, I believe, and scarcely anything was done with men who were living with their wives during all that time.

Mr. WORTHINGTON. With their plural wives, you mean?

Senator SMOOT. With their plural wives. And after statehood, in the discussion that was had at the constitutional convention, the remarks that were made there by leading men of our State led the people of the State, I think, to believe that as far as the living with their polygamous wives was concerned it would at least be tolerated by the people, thinking no doubt that that would be the best and the easiest and the quickest way to have the question solved.

Mr. WORTHINGTON. Do you mean that that applied to those who were married before the manifesto or after, or both?

Senator SMOOT. Before the manifesto. It would not apply to anyone who would take a wife after the manifesto. I think that is a fair statement of the condition; and I saw the conditions as they existed there, and I accepted them, with others.

Mr. WORTHINGTON. So that, when you became an apostle in 1900 for ten years, you say the Government of the United States and the people of the State, both Mormon and non-Mormon, to your mind had accepted that as an existing situation?

Senator SMOOT. As an existing condition.

Mr. WORTHINGTON. And you accepted the status as you found it?

Senator SMOOT. I did.

Mr. WORTHINGTON. When you became an apostle, did you do anything to interfere with that, or do anything about it?

Senator SMOOT. No; I did not.

Mr. WORTHINGTON. Did you think anything about it?

Senator SMOOT. I never thought of it any more than any other citizen of our State would or did.

Mr. WORTHINGTON. Do the apostles have a separate room where they meet when they meet as a body?

Senator SMOOT. Yes; they have a separate room.

Mr. WORTHINGTON. And that room, I believe, is in the temple?

Senator SMOOT. In the temple.

Mr. WORTHINGTON. The first presidency have a room where they meet when they meet officially?

Senator SMOOT. Yes, sir; they have a room.

Mr. WORTHINGTON. Does it adjoin or communicate with the room where the apostles meet?

Senator SMOOT. No; it does not adjoin or communicate.

Mr. WORTHINGTON. It is in a separate part of the building?

Senator SMOOT. A separate part of the building.

Mr. WORTHINGTON. You have attended, I presume, meetings of the apostles since you became an apostle?

Senator SMOOT. Oh, many times.

Mr. WORTHINGTON. And even since you have been a Senator, when you were not here?

Senator SMOOT. When I am home, if I am in Salt Lake, I attend those meetings.

Mr. WORTHINGTON. In reference to the charge here, in the first place, that the apostles are in a criminal conspiracy to further polygamy, I want to ask you whether at any meeting of the apostles at which you have been present the question of polygamy or polygamous cohabitation has been considered or discussed or referred to in any way?

Senator SMOOT. No, sir; it has not.

Mr. WORTHINGTON. It appears here that sometimes the presidency call in the apostles, and the fifteen meet together.

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. Are those meetings held in the room of the presidency?

Senator SMOOT. In the room of the apostles.

Mr. WORTHINGTON. The presidency come to you?

Senator SMOOT. They come there.

Mr. WORTHINGTON. Have you attended meetings of that kind?

Senator SMOOT. Yes; I have been there very often.

Mr. WORTHINGTON. Since you became an apostle, of course?

Senator SMOOT. Yes.

Mr. WORTHINGTON. Not to take too long time as to things about which there is no dispute, perhaps, have you observed or is it your understanding that when the apostles are called in in that way they are called in simply as advisers?

Senator SMOOT. We are advisers to the president.

Mr. WORTHINGTON. And that the president may do what he pleases in regard to the matter under consideration, although all the apostles advise him another way?

Senator SMOOT. Oh, yes; he has the ultimate decision.

Mr. WORTHINGTON. Now, at any joint meeting of the presidency and the apostles has the matter of polygamy or polygamous cohabitation ever been raised, discussed, or mentioned in any way when you were present?

Senator SMOOT. Not while I have been there.

Mr. WORTHINGTON. What do you say to the charge that the fifteen

or the twelve have been and are in a conspiracy to further polygamy or polygamous cohabitation in Utah?

Senator SMOOT. I say it is not true.

Mr. WORTHINGTON. Is there a particle of foundation for it, so far as concerns anything that has ever come under your observation?

Senator SMOOT. Not that I know of.

Mr. WORTHINGTON. You learned by the testimony of Joseph F. Smith here last March that he was living with his five wives?

Senator SMOOT. Yes.

Mr. WORTHINGTON. You have no knowledge except what everybody else may have from his statement as to the manner in which he has lived with them after the birth of the last child?

Senator SMOOT. No more than any other person.

Mr. WORTHINGTON. It appears that at the general conference of your people held in the tabernacle on the 6th day of April last, after President Smith so testified here, he was sustained as president. Were you present at the conference which was held and before which he was sustained, or where you not there at the time?

Senator SMOOT. I was not there in April.

Mr. WORTHINGTON. You were here?

Senator SMOOT. Yes; I was in Washington.

Mr. WORTHINGTON. The hearings of this committee ran after that time, and you were here, and were present?

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. Were you present at the general conference of your people which was held in the tabernacle on the 6th day of October, 1904?

Senator SMOOT. I was.

Mr. WORTHINGTON. Before I take up that subject I must ask you about another matter. What knowledge, if any, have you as to Apostle Taylor having taken a plural wife since the manifesto, except the evidence which has been given in this case?

Senator SMOOT. That is all I know about it—what I have heard here. I never heard of it before I heard of it in this room.

Mr. WORTHINGTON. What evidence have you as to whether Mathias Cowley has been guilty of that offense, except the evidence or the alleged evidence in this case?

Senator SMOOT. None whatever; the same.

Mr. WORTHINGTON. What evidence have you, except as it appears in this case, or what knowledge or information, except as it appears in the evidence in this case, that any apostle or any member of the presidency since the manifesto has taken a plural wife or has married anybody else to a plural wife?

Senator SMOOT. I have no evidence, only what I have heard since the beginning of this investigation.

Mr. WORTHINGTON. Were you present at any meeting that was held of the apostles or of the fifteen last October prior to the nomination of the officers and their being sustained by the assembled conference?

Senator SMOOT. Was I present?

Mr. WORTHINGTON. Were you present at any meeting of the fifteen or the twelve?

Senator SMOOT. I was present.

Mr. WORTHINGTON. I believe that sufficiently appears here.

Senator SMOOT. I should like to state, however, that there were not fifteen present.

Mr. WORTHINGTON. No.

Senator SMOOT. Of course.

Mr. WORTHINGTON. We all know that.

Senator SMOOT. From your question it looked as if you thought they were present.

Mr. WORTHINGTON. Mr. Taylor was not there?

Senator SMOOT. No.

Mr. WORTHINGTON. Nor Mr. Cowley?

Senator SMOOT. No.

Mr. WORTHINGTON. Nor Mr. Grant?

Senator SMOOT. Nor Mr. Grant.

Mr. WORTHINGTON. Nor Mr. Teasdale?

Senator SMOOT. Nor Mr. Teasdale.

Mr. WORTHINGTON. Mr. Merrill is ill, I believe.

Senator SMOOT. He was sick; he was not there.

The CHAIRMAN. What meeting was that?

Mr. WORTHINGTON. A meeting of the presidency and the apostles held just before the conference of October 6, 1904.

Now, while those matters are perhaps in your church considered private, I think the committee has a right to know what took place at that meeting, so far as you are concerned, in reference to the charges that have been made here against Apostle Taylor and Apostle Cowley, for instance.

Senator SMOOT. Maybe I had better tell you about Mr. Penrose, as that was the first business that came up.

Mr. WORTHINGTON. Very well. Let me, then, ask you another question. At that conference Mr. Penrose was——

Senator SMOOT. At that meeting.

Mr. WORTHINGTON. At that meeting he was proposed and at the conference he was sustained——

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. As an apostle to take the place of Mr. Woodruff, who had died after the April conference?

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. And what was the state of your knowledge at the time of this assemblage in October last as to Mr. Penrose's matrimonial relations?

Senator SMOOT. At the meeting referred to I had no intimation whatever that there would be a nomination made that day, and I doubt very much whether there was one of the apostles who did. But at that meeting President Joseph F. Smith, whose right it was, nominated Charles W. Penrose as an apostle to fill the vacancy caused by the death of Abraham O. Woodruff, and in nominating him, or stating that it was his opinion that he was the proper person, he spoke of his labors and what he had done, and also of his fitness for the calling of an apostle and for the work that was more than likely to devolve upon the different members of the quorum; and he was sustained——

Mr. WORTHINGTON. This matter may be of some importance, and if you recall the details of those remarks I should like to have you state them. What did he say about the work that might devolve upon the members of the quorum of apostles?

Senator SMOOT. I have not thought of it since then, and I would not, perhaps, be able to give it in detail. But the substance, of course, was that a good many of the older apostles were unable to go out and do very much preaching; that George Teasdale was very poorly, indeed—liable to drop off at any time; and Apostle Merrill could not get out, nor had he been out to a conference, as I remember, for years; and that the last appointments that had been made to the apostleship, from Clawson down, were young men; and that he thought that Charles W. Penrose, a man who was capable of writing, a good speaker, one that could help along that line, would be a proper man for the place.

I did not object at all to Mr. Penrose's nomination, and at the time I thought that he only had one wife. But I do not want the committee to understand that I want to hide behind that at all, because I do not want to. I take this position: I think it proper and right, where a man was married before the manifesto, or in other words, before there was any church law against it, that that man, when it comes to a church position, purely a church position, can accept any position in the church, for he did not violate any law of the church, and therefore is, or should be, qualified to fill the position in the church. I would qualify that by saying this, that I do not think that a man who was violating the law should hold a Government position, or an appointment from the Government; and I do not believe there is a single soul in our State who does.

I know that we had a postmaster at Provo, Mr. John C. Graham, who was a polygamist, and he was removed on that account; and I think Mrs. Taylor, of Salem, was, and I understand now there is not a Federal office in our State held by a polygamist, although I have not investigated to know. But I verily believe that to be true.

Mr. WORTHINGTON. Of course, as a Senator you are frequently called upon to make recommendations as to Federal offices in your State, and to confer with the President and perhaps with your brother Senators in that regard. Let me know in what instance, if at all, you have, since you have been a Senator, recommended the appointment to office of any man who was a polygamist?

Mr. SMOOT. I have made no such recommendation, nor do I ever intend to.

Mr. WORTHINGTON. Now, to go back to that conference of last October, you have not told us what, if anything, took place in reference to Apostles Taylor and Cowley.

Senator SMOOT. At that meeting the question came up of sustaining—I brought it up myself—John W. Taylor and Mathias F. Cowley as apostles in the church after listening to or hearing the testimony that was given before this committee. By the way, I ought to state that it was at the meeting before this that this question came up. It was some time before that, Mr. Worthington: a month or two before that. We held quarterly meetings there of the apostles—

Mr. WORTHINGTON. Let me understand you before you go further. Was this a meeting of the apostles only or of the presidency and the apostles?

Senator SMOOT. No; the presidency and the apostles.

Mr. WORTHINGTON. All right.

Senator SMOOT. I brought up the question whether they should

be sustained at the coming conference, and spoke of their being sustained at the April conference.

Mr. TAYLER. That is, you spoke of their having been sustained at the April conference?

Mr. WORTHINGTON. He said he spoke of their having been sustained at the April conference.

Senator SMOOT. I asked the question. I was not at the April conference. So I do not know. But the April conference came up, too.

Mr. TAYLER. All right.

Senator SMOOT. I asked President Smith if it was a proper thing to sustain those men, or to ask the people to sustain them, under the circumstances, and he stated to me that as a member of the church I must know that no man could be dropped without a hearing, and that——

The CHAIRMAN. Who said this?

Senator SMOOT. President Smith. And that it was a rule of the church that a man could not be dropped, excommunicated, or disfellow-shipped from the church without first having a chance to defend himself.

I recognized that as a rule of the church, and it was on that only that I consented that he should be presented and that I voted for him. But it was with the distinct understanding that there should be an investigation made; and I have every reason to believe that that investigation is under way, or has been for some time; and I believe also that they will have that hearing, and I believe that it will be probed to the bottom. That is my belief in the matter.

Mr. WORTHINGTON. Suppose, as a result of that investigation, or otherwise, it should turn out that either of those apostles has taken a plural wife since the manifesto, or has married somebody else to a plural wife since then, and the question comes up about their being sustained after that result is reached, may I ask what you would do about it?

Senator SMOOT. If it is proven that they are guilty of violating that law of the church, I shall not sustain them.

Mr. WORTHINGTON. Let me ask you the general question. It has been perhaps covered by your testimony. I will ask you whether at any time or at any place you have advised or countenanced any man in living in polygamous cohabitation with a plural wife?

Senator SMOOT. I have not.

The CHAIRMAN. Mr. Worthington, evidently you will not be able to conclude with this witness before the recess.

Mr. WORTHINGTON. No.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

Thereupon (at 12 o'clock meridian) the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Senator, will you resume the stand?

Senator SMOOT. Yes, sir.

TESTIMONY OF REED SMOOT—Resumed.

REED SMOOT, having been previously sworn, was examined, and testified as follows:

Mr. WORTHINGTON. Senator, there is some evidence in this case in reference to a meeting at which President Smith made a speech, or delivered a discourse, and at which Bathsheba Smith was present, referred to on pages 191 to 193 of the record. Do you remember that meeting?

Senator SMOOT. I rather think that was the meeting at Ogden, was it not?

Mr. WORTHINGTON. Yes; that is right. Were you there?

Senator SMOOT. I was.

Mr. WORTHINGTON. With Mrs. Smoot?

Senator SMOOT. She was there.

Mr. WORTHINGTON. There is a newspaper report, or what purports to be a newspaper report, in the Deseret News of that discourse. What recollection have you as to what took place there?

Senator SMOOT. It was a gathering of a few people in Weber County. I suppose you desire me simply to refer to the remarks of President Smith?

Mr. WORTHINGTON. Yes. I do not care for anything else. That is the only thing that has been put in here.

Senator SMOOT. I call to mind, now, his remarks, as I understood them, and as they impressed me at the time. He wished the people there to understand that the endowments were instituted by Joseph Smith, jr., the founder of the church, instead of by Brigham Young, and also that polygamy itself was a revelation received by Joseph Smith, jr., and that it had been practiced during his life. He also remarked that he did not wish it understood that he was advocating or teaching polygamy, but that this was given as a matter of history.

Mr. WORTHINGTON. The question which has been so much disputed, as to whether Joseph Smith, jr., did promulgate polygamy, or whether it was done afterwards and attempted to be put back on him?

Senator SMOOT. That is as I took it.

Mr. WORTHINGTON. There is something in the record here about Apostle Grant having been sent on a mission, and having gone away just about the time that a warrant was issued for his arrest for polygamous cohabitation. I wish you would tell us what you know about that, and what, if anything, you had to do in the matter.

Senator SMOOT. Why, of course, the presidents of the missions are always selected by the presidency of the church. I do remember, though, that Heber J. Grant returned from Japan. He had opened a mission in Japan, and on his return to Utah—I think it was the first general conference in October when he attended the meeting—he spoke of his mission to Japan and the work that had been done there, and I think in the afternoon of that day, although I am not positive, the president of the church announced to the conference that Heber J. Grant was hardly satisfied with his mission in Japan. I rather think that the reason for it was that he could not learn the Japanese language; that he had never been on a mission in his life before, and that he felt like it would be a proper thing to call him to preside over the European mission. It was announced at that meeting, and I believe, although I am not really positive of this, that it was presented to the

people and voted upon that he be president of that mission. That was in October.

Mr. WORTHINGTON. Just one moment. You say this was done at a conference. You mean at the general conference of the people in the tabernacle?

Senator SMOOT. At the general conference of the people in the tabernacle. That was in October. Heber Grant was in Salt Lake City from that time until he left, as I remember, in December; or at least I remember that I was here in Washington at the time he left, when the papers reported that there was a subpoena out for him. Congress opened in the beginning of December, and therefore I think it was in the beginning of December that he left.

The CHAIRMAN. Senator, will you mention the year? You said the conference was in October. October of what year?

Senator SMOOT. I think it was a year ago last December.

The CHAIRMAN. But you spoke of some conference.

Senator SMOOT. That was the October before that.

The CHAIRMAN. What year?

Senator SMOOT. A year ago last October. That would be 1903.

Mr. WORTHINGTON. So that at all events he was present there for several weeks after it had been publicly announced in the tabernacle that he was to go on this mission to Europe?

Senator SMOOT. Oh, he announced, I think, a couple of days before he left there, in a farewell address in the tabernacle, before an audience, that he intended to leave in a couple of days for Europe. I will wish to add, still further, that all the time he was home—that is, Sundays—I think he spoke at the different quarterly conferences and reported his mission to Japan, and also stated that he had been called to preside over the European mission and that he intended to leave shortly for that mission.

Mr. WORTHINGTON. Now, there has been a good deal said here about one Benjamin Cluff, jr., and a Mr. Brimhall, who succeeded him in a certain position in the Brigham Young Academy at Provo. You were a trustee, I believe, of that institution?

Senator SMOOT. I was.

Mr. WORTHINGTON. Are you still?

Senator SMOOT. I am.

Mr. WORTHINGTON. How long have you been one of its trustees?

Senator SMOOT. Now, Mr. Chairman, I can not say positively how long. I have not looked it up.

Mr. WORTHINGTON. Approximate the time as well as you can.

Senator SMOOT. My father died in 1895, and I rather think it was shortly after his death, but I am not really sure how soon.

Mr. WORTHINGTON. That is a church institution, is it?

Senator SMOOT. It is a church school.

Mr. WORTHINGTON. And how many persons compose the board of trustees?

Senator SMOOT. Well, I think there are eleven, but I am not really sure—eleven or twelve.

Mr. WORTHINGTON. I presume they are all members of your church, of course?

Senator SMOOT. They are all members of the church.

Mr. WORTHINGTON. Mr. Cluff held what office in that institution?
Senator SMOOT. He was president of the faculty.

Mr. WORTHINGTON. Well, he ceased to be a member and Mr. Brimhall took his place. I wish you would tell us in your own way what you know about that, and what you had to do with Cluff going away and Brimhall taking his place, especially as it may bear upon the allegation here that Cluff took a plural wife after the manifesto.

Senator SMOOT. In 1900 Benjamin Cluff, with a number of other persons, left Provo for South America on an expedition. I think he was gone a little over two years. He returned in 1902. Shortly after his return, I do not just remember how soon, there was a report circulated—that is, quietly whispered about—that Cluff had married a plural wife while in Mexico. I remember Mr. Jesse Knight, of Provo, one of our executive committee—

Mr. WORTHINGTON. One of the board of trustees, do you mean?

Senator SMOOT. Yes; and a member of the executive committee. He asked me if I had heard it. I told him I had not, that he was the first one who had called my attention to it. I told him that I did not believe it was true, for I did not believe it was possible to be done by anyone in the church, and that if they did it I thought it was done without the sanction of the church in any way. Jesse Knight told me that he was going to investigate it and see if it were true. On several occasions we talked about it, and I remember that on one occasion he said he had asked Mr. Cluff if it was true, and Mr. Cluff laughingly remarked that there were lots of reports that were not true, and Jesse took it, and I also took it, from the remark, that he evaded the question. It was spoken of. I remember of speaking of it to Mr. Holbrook, another member of the committee, and also to Mr. Dusenberry, and it was discussed more or less. At the next meeting of the trustees the question came up, and was brought up, I think, by Jesse Knight. He made a motion that George Brimhall be the president of the faculty for the coming year. It was at a meeting when the faculty was made up for the year preceding the one that the school was in session. I suppose it would be the latter part of the second semester. It brought up a discussion—

Mr. WORTHINGTON. Did you say, made up the faculty for the year preceding or succeeding?

Senator SMOOT. Succeeding.

Mr. WORTHINGTON. You said preceding.

Senator SMOOT. I meant succeeding. The question came up then for discussion, and Jesse Knight made the statement there that he understood Cluff had married another wife, and it was talked over. I know President Smith was there, and he said that such a thing could not be, with the sanction of the church, and that if Cluff had done it he had done something that he had no authority to do. We talked the matter over, and they were going to put George Brimhall in as president of the institution for the coming year. George Brimhall was then sick in California, and we expected him to be president of the institution. When he came back from California we found that he had taken a relapse, and that he could not do the work, and he had to go up to Canada. He went to Canada, regained his health there, and the next January, I think—I am not positive as to the date, because as soon as he was well enough I was down here at

Washington—he was put in as president of the institution and Cluff was dropped.

Mr. TAYLER. That was about a year ago?

Senator SMOOT. I think that was about a year ago, as I remember.

Mr. WORTHINGTON. Then the delay in putting Brimhall in Cluff's place was owing solely, as I understand you, to Brimhall's condition of health?

Senator SMOOT. At that time.

Mr. WORTHINGTON. Just one moment. The young woman to whom it is said Cluff had been married was Florence Reynolds? That has been testified to here.

Senator SMOOT. Yes, I understood so.

Mr. WORTHINGTON. Was she a teacher in that school or academy?

Senator SMOOT. I do not think she ever was a teacher.

Mr. WORTHINGTON. Something has been said here about her going to Mexico in kindergarten work. Do you know, by reputation or otherwise, whether she went down to Mexico in kindergarten work before Cluff went down on this expedition of which you have spoken?

Senator SMOOT. I never met the lady in my life, and from my own knowledge, of course, it would be impossible for me to say; but I learned, though, that she used to go to the school at Provo, and from the school she went to Mexico to teach in the kindergarten.

Mr. WORTHINGTON. And before he went on this expedition?

Senator SMOOT. Before he went on this expedition.

Mr. WORTHINGTON. So that whatever took place between them, in the way of forming the marriage relation or any other relation, or whatever took place, took place down there while they were both away?

Senator SMOOT. I should judge so.

Mr. WORTHINGTON. Why was it that Mr. Brimhall was elected to succeed Cluff?

Senator SMOOT. Mr. Brimhall was the most popular man and teacher we ever had at the institution. In other words, Mr. Brimhall has been, and I rather think is to-day, the idol of the young men. He is a very forceful speaker. He is a very convincing man in his speech, and he is an exceedingly bright teacher, and everybody, old and young, likes him. It was thought proper that Mr. Brimhall should be placed as the president of the faculty of that institution, for the good of the institution, and I do not think there was a dissenting voice in the board of trustees; and while I was not there, I wish to state this, that from my knowledge of Mr. Brimhall, knowing him as I do, knowing how popular he is, and for the good of the institution, as a trustee of that institution I certainly would have voted for Mr. Brimhall to be president of the faculty.

Mr. WORTHINGTON. Did you know at the time about his exact status in relation to his marital relations that he has testified to here?

Senator SMOOT. Yes; I knew.

Mr. WORTHINGTON. Let me see if I recall it correctly. He had had a wife who, in 1883, went to a hospital and has been there ever since; and in 1885 he took a plural wife and has lived with her since, but never with the first wife.

Senator SMOOT. Well, I believe that is the true statement of his condition. I doubt very much whether many people know that George H. Brimhall is a polygamist. I never heard him speak of it

in my life, and I suppose the committee here noticed how very careful George Brimhall was in even having that brought out by the chairman. His wife has been in the asylum, as I know, ever since the opening of the asylum, and of course it is true that he lives with the wife he has now. His first wife has been in that condition for a great many years.

Mr. WORTHINGTON. Well, you knew about his situation, as to his marital relation, at the time he was discussed as a successor to Cluff?

Senator SMOOT. Well, I would have done, if it had been called to my attention. There would not be any doubt about that. I never thought about it.

Mr. WORTHINGTON. It would not have made any difference in your action?

Senator SMOOT. Not at all.

Mr. WORTHINGTON. As a matter of fact, I understand you never thought of it at all?

Senator SMOOT. Not at all. It would not have made a particle of difference in my action if I had.

Mr. WORTHINGTON. I understand your position about that. It has been already shown, but I will ask you whether you read this letter of Apostle Lyman's dated May 5, 1904, addressed to you, asking you to particularly call attention to the then recent action of the conference on the question of future polygamous marriages?

Senator SMOOT. I read it.

Mr. WORTHINGTON. Did you know Brigham Young, jr., who was an apostle?

Senator SMOOT. I did.

Mr. WORTHINGTON. And who is referred to in the testimony of Mrs. Kennedy here?

Senator SMOOT. I did.

Mr. WORTHINGTON. I wish you would look at what purports to be his picture in the Biographical Encyclopedia, Volume I, of Doctor Jensen, page 122, and tell me what you have to say as to that being a reasonably good likeness of the man.

Senator SMOOT (after examining picture). Yes; that is a fairly good picture.

Mr. WORTHINGTON. Do you think anybody who had seen him, and especially anybody who had been married by him, would have any difficulty in recognizing him?

Senator SMOOT. None whatever.

Mr. WORTHINGTON. Do you remember the bill which was introduced into the Utah legislature, and which is known as the Evans bill?

Senator SMOOT. I remember such a bill.

Mr. WORTHINGTON. Which was passed by the legislature and vetoed by the governor?

Senator SMOOT. Yes.

Mr. WORTHINGTON. What action, if any, did you take about that measure?

Senator SMOOT. Well, I was in consultation with the governor on two occasions. I think, when that was under consideration by him as the executive, and I took the same position that Governor Wells took on the bill, that I thought it was a very unwise measure.

Mr. WORTHINGTON. Did you tell him so?

Senator SMOOT. I did.

Mr. WORTHINGTON. Did you have anything to do with that matter except to advise Governor Wells that it was an unwise measure?

Senator SMOOT. That is all.

Mr. WORTHINGTON. Have you had anything to do with religion classes in your county of Utah?

Senator SMOOT. Myself?

Mr. WORTHINGTON. Yes.

Senator SMOOT. No; I am not interested in them at all.

Mr. WORTHINGTON. Can you tell us whether or not you had in Provo the religion classes which have been referred to here—in the schoolhouses, I mean?

Senator SMOOT. No; we never had any religion classes in the schoolhouses at Provo.

Mr. WORTHINGTON. In your bailiwick they never were held in the schoolhouses?

Senator SMOOT. They never were held there; but I wish to state, Mr. Chairman, that I have not the least doubt in the world that the religion classes have been held in schoolhouses after school hours, as was testified to here by the superintendent of public instruction. There is not a doubt in the world about it.

Mr. WORTHINGTON. I would like, at this point, Mr. Chairman, to put in evidence an order which has recently been made by the church on that subject. It is a matter of public knowledge, and I have it here in the Salt Lake Herald of Tuesday, January 17, 1905.

The CHAIRMAN. What is the date of the order?

Mr. WORTHINGTON. The order is not dated, but this is the first publication of it. It is of recent date.

The CHAIRMAN. An order by whom?

Mr. WORTHINGTON. An order signed by the first presidency and addressed to presidents of stakes, bishops of wards, and superintendents of religion classes.

The CHAIRMAN. Let it go in.

Mr. WORTHINGTON. And it forbids the use of schoolhouses any further for that purpose.

The order above referred to is as follows:

Church classes must withdraw—Edict given out by the first presidency—In harmony with statutes—“Opposed to Denominational school teachings.”

Following the disclosures in the Smoot investigation, Joseph F. Smith, John R. Winder, and Anthon H. Lund, the first presidency of the Church of Jesus Christ of Latter-Day Saints, issued the following instructions yesterday regarding the question of religion classes in public schools:

“To the presidents of stakes, bishops of wards, and superintendents of religion classes:

“In answer to inquiries that have been made relative to our attitude in relation to the holding of religion classes in public-school buildings, we deem it proper to put forth the following statement:

“To begin with, we wish it distinctly understood that we are not in favor of, but are emphatically opposed to, denominational teachings in our public schools. We are proud of that splendid system of

schools and do not desire that they should be interfered with in any way whatever. For religious and devotional training other institutions are provided by our church as well as by other churches, and we can not too strongly urge that the two systems continue to be kept entirely separate and apart.

PURPOSE OF CLASSES.

"The religion classes instituted by the Church of Jesus Christ of Latter-Day Saints are designed as auxiliaries of our church schools, in which, along with the usual branches of learning, the principles of the Gospel are inculcated, the object being to add to, not to take from, the education received in secular institutions moral, devotional, and faith-promoting training that can not, and must not, be included in the curriculum of the public schools; but which the saints desire their children to receive.

"In a number of settlements these classes have been held in public schoolhouses, especially where the population is largely Latter-Day Saints, but there has been no intention to introduce religious teaching in the public schools, nor has it been so introduced. The use of the school buildings was merely for the sake of convenience and to facilitate the assembling of the classes, many of whose numbers were students in the schools. The question involved was submitted to the State superintendent of schools, also to the attorney-general, and they were requested to give their opinions upon the matter of holding these classes in the school buildings after the schools were dismissed. Those officials were of the opinion that the statutes gave trustees the right to let the schoolhouses for other than school purposes when it would not interfere with the regular school work. Our instructions to those in charge of the religion classes have always been to allow sufficient time to intervene between the dismissal of the schools and the opening of the classes, so as to avoid any infringement upon the regular school work, and give all a chance to withdraw who did not desire to attend the classes.

LAW ON SUBJECT.

"The State superintendent of schools has since expressed the view that the statute on the subject of letting school buildings for other than school work is unconstitutional, and many of our fellow-citizens, it seems, have become alarmed lest the public schools should be endangered by the religion classes. While we regard this fear as groundless, and are not conscious of having done anything, by instructions previously given, or otherwise, to imperil in the least the independence of the schools, we do not wish to cause our fellow-citizens any uneasiness upon this score, and we desire, as ever, to be in harmony with the statutes of our State and nation. We therefore advise the workers in the religion classes to withdraw from the public school buildings, wherever they are being used by them, and hold such classes in other places that may be available.

ADVICE TO BISHOPS.

"We sincerely hope that this will not retard or hinder the good work being done in these classes. We desire to encourage the religion class workers to continue their praiseworthy efforts to teach our

children the saving principles of the Gospel of Christ and likewise how to 'pray and walk uprightly before the Lord.' The bishops should use their best endeavors to provide suitable places wherein these classes can meet and to make them more than ever an aid to the spiritual and moral education of the children of the Latter-Day Saints.

"JOSEPH F. SMITH,
"JOHN R. WINDER,
"ANTHON H. LUND,
"First Presidency."

Senator SMOOT. I would like to add, Mr. Chairman, to my answer that I have always thought it would be best for religious classes not to be held in the schoolhouses, no matter whether it was after the close of the day's exercises or not. I thought it was rather unwise. I am very glad indeed that that order has been issued. It meets with my hearty approval. Of course I rather think it is due the committee to explain that in some of those outlying counties the people are rather poor and they have very few public buildings. In some cases, of course, it was brought about in that way. Yet I do not for a minute want it understood that I say that is the case in the schools all over our State. Of course no student was compelled to attend those classes and no teacher was compelled to teach them. It was left entirely with the student and with the teacher as to whether they would be, the former a scholar or the latter a teacher.

Mr. WORTHINGTON. Senator, the name of Mr. Borah is signed to your original answer in this case as one of your counsel, and some comment has been made here on the fact that his name has been signed as counsel and that he has never appeared. I wish you would explain that matter.

Senator SMOOT. Shortly after I left Washington, after I had made arrangements with Mr. Worthington here to represent me as counsel, I returned home with the idea of having local counsel as assistants. After I had canvassed the situation thoroughly at home I agreed if I could secure the services of Mr. Van Cott I would do so; and I also thought, from the protest that had been filed, that the question of politics in Idaho would cut some figure, as it has done, and that it would be proper for me to have somebody who lived in Idaho as an assistant counsel. I telephoned from Salt Lake to Boise City and asked Mr. W. E. Borah if he would assist me as counsel in this case. He replied that he would, and I fully expected that Mr. Borah would have been here. Before Mr. Van Cott left Salt Lake City he telephoned to him and arrangements were made to meet him at Granger.

Mr. WORTHINGTON. That is, he telegraphed Mr. Borah to meet him?

Mr. VAN COTT. He telephoned.

Senator SMOOT. He telephoned; but Mr. Borah did not meet Mr. Van Cott, as he thought he would from his conversation over the phone, and Mr. Van Cott came to Washington. I received a letter from Mr. Borah that a case had arisen at home that would compel him to remain there for some little time, and for my counsel to go on. We had but four or five days—I do not remember which, but not to exceed that—to draw the answer after Mr. Van Cott came to Washington in consultation with Mr. Worthington, and we proceeded and had that answer drawn the best we could. Mr. Borah's name was

signed as counsel, we, of course, thinking that he would come just as soon as he could. The case proceeded——

MR. WORTHINGTON. I do not care to proceed any further with the reason why Mr. Borah is not here. I wanted to have it understood that when your other counsel signed Mr. Borah's name they did that as a courtesy to Mr. Borah, whom they understood then to be one of the counsel in the case?

Senator SMOOT. Yes.

MR. WORTHINGTON. Now, as a matter of fact, has Mr. Borah participated in the case as counsel at all?

Senator SMOOT. No; he has not.

MR. WORTHINGTON. I do not care about going into the reasons why he has not, if there are any. It has appeared here that there has been some difficulty in getting service of process upon some of the persons for whom subpoenas were issued by this committee, and that some have been out of the country. I want to ask you whether you have, directly or indirectly, advised or assisted anybody in evading the service of such process?

Senator SMOOT. I have not.

MR. WORTHINGTON. Or whether you have done everything you could to have the persons whom this committee have expressed the wish to have here come here?

Senator SMOOT. That would be my desire.

MR. WORTHINGTON. And have you manifested that desire in every possible way?

Senator SMOOT. In every way that I could.

MR. WORTHINGTON. Now, there are some specific charges standing here, to which, perhaps, I might call your attention in the same general way in which they are framed. I refer to the revised charges which were presented here by Mr. Tayler when there was a preliminary hearing before this committee. I pass over the first one, because I consider that it has been sufficiently answered.

The second is this:

"The first presidency and twelve apostles, of whom Reed Smoot is one, are supreme in the exercise of this authority of the church and in the transmission of that authority to their successors."

I will ask you whether, as a matter of fact, the president, while he is living and in power, is not the supreme authority, and whether, as you have testified, the apostles are not simply advisers?

Senator SMOOT. That is all.

MR. WORTHINGTON. The third charge is:

"This body of men"——

Of which you are one——

"has not abandoned belief in polygamy and polygamous cohabitation. On the contrary"——

Now, this is the first subdivision of the charge——

"as the ruling authorities of the church, they promulgate in the most solemn manner the doctrine of polygamy without reservation."

Have you in any way, since you became an apostle, promulgated or advised the promulgation of the practice of polygamy?

Senator SMOOT. I have not.

MR. WORTHINGTON. I will not ask you as to your belief in the doctrine, because, in my judgment, that is a matter as to which nobody has the right to inquire.

The next charge is:

"The president of the Mormon Church and a majority of the twelve apostles now practice polygamy and polygamous cohabitation, and some of them have taken polygamous wives since the manifesto of 1890."

Have you any knowledge on those subjects, except what has appeared in the evidence before this committee?

Senator SMOOT. I have not.

Mr. WORTHINGTON. It is said (reading):

"These things have been done with the knowledge and countenance of Reed Smoot."

What do you say to that?

Senator SMOOT. That is not true.

Mr. WORTHINGTON. It is said next that—

"Plural marriage ceremonies have been performed by apostles since the manifesto of 1890."

Senator SMOOT. Not to my knowledge.

Mr. WORTHINGTON. Do you know that even by reputation?

Senator SMOOT. I never heard of one at all until I heard the testimony here about Brigham Young performing one in Mexico.

Mr. WORTHINGTON. With Mrs. Kennedy. It is said also that "many bishops and other high officials of the church have taken plural wives since that time." Have you heard in any way that any bishop of the church has taken a plural wife since the manifesto?

Senator SMOOT. I have not.

Mr. WORTHINGTON. Or any other high official, except such as have been mentioned here in this testimony?

Senator SMOOT. Except as mentioned in that testimony.

Mr. WORTHINGTON. It is next said that all of the first presidency and the twelve apostles encourage polygamy and polygamous cohabitation. Do you?

Senator SMOOT. I do not.

Mr. WORTHINGTON. That they countenance it. Do you?

Senator SMOOT. I do not.

Mr. WORTHINGTON. That they conceal it. Do you?

Senator SMOOT. I do not.

Mr. WORTHINGTON. That they connive at it. Do you?

Senator SMOOT. I do not.

Mr. WORTHINGTON. It is next said that they "honor and reward by high office and distinguished preferment those who most persistently and defiantly violate the law of the land"—referring, I suppose, in what Brother Tayler calls his rhetoric, to these gentlemen who live in polygamous cohabitation.

Now, let me ask you, in regard to that, have you ever upheld for office any man, in the church or out of it, because he was a polygamist or because he was living in polygamous cohabitation?

Senator SMOOT. I have not.

Mr. WORTHINGTON. Or have you ever advised that any man should be preferred or honored in any way because of his being a polygamist or because of his living in polygamous cohabitation?

Senator SMOOT. I have not.

Mr. WORTHINGTON. The last charge is—

"Though pledged by the compact of statehood and bound by the law of their Commonwealth"—

And that is a little of the rhetoric about the law, as to which we need not ask you—

“this supreme body, whose voice is law to its people, and whose members were individually directly responsible for good faith to the American people”—

That is some rhetoric about which I will not ask you—

“permitted, without protest or objection, their legislators to pass a law nullifying the statute against polygamious cohabitation.”

That refers to the Evans bill, I presume, and you have already answered that.

I have asked you about your knowledge as to whether any member of the 15 has entered into polygamy since the manifesto. Let me ask you what knowledge you have on that subject, as to any member of your church having entered into polygamious relations or having taken a plural wife since the manifesto.

Senator SMOOT. I have no knowledge of that.

Mr. WORTHINGTON. Have you any knowledge on the subject except the testimony mainly in the way of alleged reputation that is spread upon this record?

Senator SMOOT. That is all.

Mr. WORTHINGTON. There has been something said about a man named Harmer, who was a bishop, I believe, in Springville. I do not care to go over that case again, but it has been intimated here that he was pardoned, and Mr. Van Cott is under the impression that some suggestion has been made that you signed the application for his pardon. In the first place, did you sign any application for his pardon?

Senator SMOOT. I did not; but, on the contrary, I refused.

Mr. WORTHINGTON. As a matter of fact, was he pardoned?

Mr. SMOOT. He was not pardoned.

Mr. WORTHINGTON. When did you first learn or what have you heard to that effect, that he was holding out as his wife the woman with whom he was charged with having committed adultery since he came out of the penitentiary?

Senator SMOOT. I did not catch that question. Read that, please.

The reporter read as follows:

“Mr. WORTHINGTON. When did you first learn or what have you heard to that effect, that he was holding out as his wife the woman with whom he was charged with having committed adultery since he came out of the penitentiary?”

Senator SMOOT. When he was here I heard him say it.

Mr. WORTHINGTON. That is all the information you have on the subject?

Senator SMOOT. That is all I have, I think, with what the other witnesses have stated.

Mr. WORTHINGTON. You may cross-examine, Mr. Tayler.

Mr. TAYLER. Then, as I understand you, you do not believe that Abraham H. Cannon did take a plural wife after the manifesto?

Senator SMOOT. Well, I am in doubt, Mr. Tayler, as to that. I know this, that when Lillian Hamlin came to Provo it was understood there that he married her before the manifesto.

Mr. TAYLER. Before the manifesto?

Senator SMOOT. Before the manifesto.

Mr. TAYLER. Who said that?

Senator SMOOT. I think that Mrs. Susie Gates told me.

Mr. TAYLER. Mrs. Susie Gates?

Senator SMOOT. And I know that was the impression.

Mr. TAYLER. So that you have no doubt that he did marry her then?

Senator SMOOT. Well, I think it was a marriage, that he thought it was a marriage.

Mr. TAYLER. Yes; I know.

Senator SMOOT. And all I know about it is what was in the testimony here.

Mr. TAYLER. The testimony that was given here did satisfy you that he married her at some time?

Senator SMOOT. I rather think he thought that he married her at some time.

Mr. TAYLER. That is, you rather think that he did marry her at some time?

Senator SMOOT. I believe he did, although I am not sure.

Mr. TAYLER. But from the testimony that you heard here—and it is that that I am asking you to interpret for us here, to see what you think about such things—you are not ready to say that you think he was married to her about 1896?

Senator SMOOT. It would be impossible, Mr. Tayler, for me to say that.

Mr. TAYLER. You heard her brother testify, did you?

Senator SMOOT. Yes; I heard her brother testify.

Mr. TAYLER. His testimony was not such as to induce you to believe that she was not the wife of Abraham Cannon before 1896?

Senator SMOOT. I rather think that if I was going to judge I would say he married her near that time, 1896.

Mr. TAYLER. Near 1896, yes. You have been a Mormon all your life?

Senator SMOOT. All my life.

The CHAIRMAN. Mr. Tayler, I want to ask this question right there—

Senator SMOOT. Not a very active one, though, all my life, Mr. Tayler.

The CHAIRMAN. You say you think Mr. Cannon married in 1896?

Senator SMOOT. From the testimony, now, that has been given here, I think he did, Mr. Chairman.

The CHAIRMAN. Was he one of the apostles at that time?

Senator SMOOT. In 1896?

The CHAIRMAN. Yes.

Senator SMOOT. Yes; he was one of the apostles.

The CHAIRMAN. Excuse me, Mr. Tayler. That is all.

Senator SMOOT. I will state, however, Mr. Chairman—you know he died immediately; that is, before any rumor was ever known about Lillian Hamlin.

Mr. TAYLER. He died within two months, at the most, after he married her? Is that correct?

Mr. WORTHINGTON. Do you ask the witness to say when he married her?

Senator SMOOT. I do not say when he did. I think the rumor—

Mr. TAYLER. I think the witness was only inferring that himself.

Senator SMOOT. He was dead before any rumor, as I understand it,

ever came out that he had, or even anyone thought that he had married her.

Mr. TAYLER. Then the rumor to which you originally referred, about his possibly having married her before the manifesto, circulated after his death?

Senator SMOOT. Yes.

Mr. TAYLER. Six years after the manifesto?

Senator SMOOT. Yes; it was about that.

Mr. TAYLER. What kind of a Mormon were you, Senator? You say you were not——

Senator SMOOT. At what time, Mr. Tayler?

Mr. TAYLER. Well, I am now referring to your own characterization of yourself, and I want it made a little more explicit.

Senator SMOOT. No; I said "active."

Mr. TAYLER. Yes; active. When I said "What kind of a Mormon were you?" I meant as to activity.

Senator SMOOT. I held no special office in the church, as I said, Mr. Tayler, until 1895, and then of course it was only in our Utah stake.

Mr. TAYLER. That is, at Provo?

Senator SMOOT. At Provo.

Mr. TAYLER. You were, however, a firm believer in the faith?

Senator SMOOT. I had faith in my mother, and I had faith in my father. I always had faith. My faith in Mormonism was stronger than any other faith I ever——

Mr. TAYLER. What is that?

Senator SMOOT. I say my faith in Mormonism up to that time was stronger than any faith I could have for any other religion.

Mr. TAYLER. Well, your faith in your religion and the religion of your parents has not abated since you became an apostle, has it?

Senator SMOOT. Oh, no; not at all. In fact, it has increased, Mr. Tayler.

Mr. TAYLER. Increased because of the responsibility, duty, and relations of the apostles?

Senator SMOOT. No. I have become older; I have seen a great many things; my experience is much wider, and it is through that that my faith has increased.

Mr. TAYLER. And your convictions have deepened?

Senator SMOOT. I think so, Mr. Tayler.

Mr. TAYLER. Of course you had all of the respect for your father and your mother that a son could have for his parents?

Senator SMOOT. No man ever had a better mother in the world than my mother was.

Mr. TAYLER. And what they did and what they believed you respected on that account, as much as a good son would ever respect?

Senator SMOOT. Oh, when I was younger; yes.

Mr. TAYLER. When did you begin to take an interest in public affairs?

Senator SMOOT. You mean in a business way?

Mr. TAYLER. No; generally. I mean in your church and in the history of your State and your community?

Senator SMOOT. Well, in my church, it was some time after I returned from a mission to England. I returned in the fall of 1891.

Mr. TAYLER. The fall of 1891?

Senator SMOOT. After that; yes.

Mr. TAYLER. How long had you been there?

Senator SMOOT. I was gone ten months. I went over in December, I think, of 1890, and returned in October of 1891. As far as my business is concerned, of course I have been in business there for a number of years.

Mr. TAYLER. During the period from your marriage down to this period of ten months, during which you were abroad on a mission, you were, of course, in daily contact with and had knowledge of what was going on in Utah?

Senator SMOOT. Oh, yes.

Mr. TAYLER. You were familiar with the prosecutions of the Mormons?

Senator SMOOT. I was.

Mr. TAYLER. Of those charged with polygamy and polygamous cohabitation?

Senator SMOOT. I was.

Mr. TAYLER. You knew of the sufferings they and their families endured?

Senator SMOOT. I did.

Mr. TAYLER. Just as others did, who were not themselves personally participating in them?

Senator SMOOT. Yes.

Mr. TAYLER. And was your interest in that subject, do you imagine, any less than the interest of other good Mormons?

Senator SMOOT. I do not think so. I can not say that it would be, nor that it was.

Mr. TAYLER. Well, you were not at all indifferent to what was going on, or were you measurably indifferent as compared with the most intelligent of your people?

Senator SMOOT. Why, I knew what was going on, Mr. Tayler, of course.

Mr. TAYLER. Were you profoundly interested in it?

Senator SMOOT. I could not say that I was.

Mr. TAYLER. Do you remember when the Edmunds Act was passed?

Senator SMOOT. Yes.

Mr. TAYLER. You were familiar with its general details?

Senator SMOOT. Well, partially so. I should say.

Mr. TAYLER. You knew when the Edmunds-Tucker Act passed?

Senator SMOOT. Yes.

Mr. TAYLER. Five years later?

Senator SMOOT. Five years later.

Mr. TAYLER. Was your father ever prosecuted?

Senator SMOOT. He was arrested, and stood trial, and was acquitted.

Mr. TAYLER. Did he leave the country at any time?

Senator SMOOT. He did not.

Mr. TAYLER. You knew of many who did, did you?

Senator SMOOT. Well, I knew there were a great many in the State who did from report. Of course I did not know many people who had done it.

Mr. TAYLER. You were, of course, familiar with the manifesto. Were you present when that was adopted?

Senator SMOOT. No; I was not.

Mr. TAYLER. You knew about it?

Senator SMOOT. I knew about it.

Mr. TAYLER. Was it a matter of deep interest to you?

Senator SMOOT. I approved of it.

Mr. TAYLER. Well, I assume you approved of it; but did it make any special impression on you?

Senator SMOOT. It made the impression on me that it was going to forever stop polygamous marriages.

Mr. TAYLER. And on that account you very heartily approved of it?

Senator SMOOT. I approved of it, Mr. Tayler.

Mr. TAYLER. Did you realize that it brought the church to a very important, if not the most important, epoch in its history since it was founded?

Senator SMOOT. Well, I could not say as to that.

Mr. TAYLER. I am only getting at whether you maintained an attitude of comparative indifference or whether it sank deep down in your consciousness as a very important thing.

Senator SMOOT. I thought it was a very important period in the history of our church.

Mr. TAYLER. You did not understand that it in any way disparaged the revelation of polygamy?

Senator SMOOT. No; I did not so understand it.

Mr. TAYLER. Nor do you understand that the people now consider it as in any sense disparaging the doctrine of polygamy?

Senator SMOOT. The practice of it—it certainly does.

Mr. TAYLER. I am not speaking about its practice. I used the word “doctrine.”

Senator SMOOT. I believe the majority of the people say that that is the case.

Mr. TAYLER. You yourself have no doubt about the divinity of its origin?

Senator SMOOT. The doctrine of polygamy?

Mr. TAYLER. Yes.

Senator SMOOT. I think the doctrine and covenants—the revelation that was given to Joseph Smith——

Mr. TAYLER. That is, it came from God?

Senator SMOOT. That he received it from the Lord.

Mr. TAYLER. And that it was righteous to practice polygamy until the manifesto suspended it?

Senator SMOOT. Well, I could not say as to that, Mr. Tayler. I had better give you my view as to that, and then you can see how I feel. As an abstract principle, approved by the Bible and permitted by the doctrine and covenants, I believe it; but as a practice against the law of my country, I do not.

Mr. TAYLER. You do not? When did you reach that conviction?

Senator SMOOT. All my life; ever since I have been a man.

Mr. TAYLER. All your life. That is to say—you have always said that it was unlawful?

Senator SMOOT. I have always said since the final decision by the Supreme Court that it was unlawful.

Mr. TAYLER. When was that final decision?

Senator SMOOT. There was a decision given in 1878 in the Reynolds case.

Mr. TAYLER. Yes.

Senator SMOOT. By the Supreme Court.

Mr. TAYLER. Yes.

Senator SMOOT. Of course I was but a mere boy then; but I do know from what I have heard from the leaders of the church, and from men in general and members of the church, that they felt that the decision and the law were against bigamy. While the decision takes in the whole question of polygamy and bigamy, they felt that it was not fairly tried, and they thought they would have it tested in the Supreme Court of the United States again. I think the final decision of that matter, which was perfectly satisfactory to all of the people, was in 1890. That is as I understand it, Mr. Tayler.

Mr. TAYLER. You have read the opinion, have you not?

Senator SMOOT. Yes; I have read the opinion lately, of course.

Mr. TAYLER. And to your intelligence, now, do you have any doubt about its destroying the principle that one man may take two wives because his religion says he may?

Senator SMOOT. That is, speaking of the——

Mr. TAYLER. Of the Reynolds case.

Senator SMOOT. Speaking of the Reynolds case, my opinion would be that it was a decision that would prevent that.

Mr. TAYLER. That would prevent that?

Senator SMOOT. Yes.

Mr. TAYLER. Then there has been, according to your view of it, no justifiable marriage since that time?

Senator SMOOT. Well——

Mr. TAYLER. I mean plural marriage.

Senator SMOOT. I would not want to go that far, Mr. Tayler. Technically, if the people had believed that to be a decision of the Supreme Court against polygamy and final, that is true; but they did not.

Mr. TAYLER. I see.

Senator SMOOT. And it was for that they were fighting—for a religious conviction.

Mr. TAYLER. Yes; exactly.

Senator SMOOT. And they thought they were doing right, and they took it to the Supreme Court of the United States, and when it was finally decided there they accepted it.

Mr. TAYLER. So that it was proper for a man who said that that decision was wrong, or did not reach the case of a plural wife, to continue to take plural wives?

Senator SMOOT. Well, you must take into consideration, Mr. Tayler, this fact: that that was in 1878, and nothing was done at all, you know, for four years or so after that.

Mr. TAYLER. Nothing was done?

Senator SMOOT. That is, in the way of prosecutions?

Mr. TAYLER. What remained to be done, Senator? The law was there.

Senator SMOOT. The law was there, but I mean the enforcement of it.

Mr. TAYLER. George Reynolds had been prosecuted.

Senator SMOOT. Well, George Reynolds came and gave himself up.

Mr. TAYLER. Yes.

Senator SMOOT. And furnished all the testimony.

Mr. TAYLER. Yes.

Senator SMOOT. And he himself claimed that it was not presented in the right light, and that if it had been the decision would have been otherwise. I have heard him say so over and over again.

Mr. TAYLER. Yes, exactly. But nevertheless the court did decide it in a certain way, and he did suffer the penalty.

Senator SMOOT. There is not a doubt about it in the world.

Mr. TAYLER. And the court has never indicated any other doctrine since, has it?

Senator SMOOT. No; it has not.

Mr. TAYLER. And that case was never reheard by the court, was it?

Senator SMOOT. I do not think it was.

Mr. TAYLER. So that they undertook to excuse themselves after 1878 until what time?

Senator SMOOT. Until 1890. I think the decision was given then.

Mr. TAYLER. Until when?

Senator SMOOT. The decision that was given in 1890, as I remember it. That was in the Snow case, was it not?

Mr. TAYLER. We had a good many decisions since.

Senator SMOOT. I know; but I think that was the final case.

Mr. TAYLER. Do you not know that there were many decisions prior to that time which were absolutely, if anything more was needed, conclusive of the question?

Senator SMOOT. No; I understand that all of the decisions between that time were upon questions that arose as to certain points in the rulings by judges in our Territory, as it was then, and I do not remember that there was anything definite decided other than those special points.

Mr. TAYLER. Do you remember the case of *Murphy v. Ramsey*—when was that?

Senator SMOOT. I do not call to mind that case.

Mr. TAYLER. What?

Senator SMOOT. I do not call to mind that case, Mr. Tayler. In fact, I have not followed them closely at all.

Mr. TAYLER. Do you not know, Senator, that the manifesto resulted from the agitation in Congress over the proposition that the elective franchise in Utah should be restricted to those who gave unqualified allegiance to the Government of the United States?

Senator SMOOT. No; I do not understand that, Mr. Tayler.

Mr. TAYLER. And that every fundamental case had long been decided before that?

Senator SMOOT. No; I do not understand it that way. My understanding is this: That the manifesto came after the passage of certain laws and the final decision thereon by the Supreme Court, and not only that. I believe it came from pressure within the church as well.

Senator BEVERIDGE. What do you mean by that—"within the church itself?" Do you mean there was a desire on the part of the people within the church to obey the laws interpreted in that decision?

Senator SMOOT. Interpreted in that decision; and to obey all the laws, Senator.

Mr. TAYLER. Without exception?

Senator SMOOT. I think so. I think the Mormon people—

Mr. TAYLER: And including the law respecting polygamous cohabitation?

Senator SMOOT. At that time I really think that was the understanding.

Mr. TAYLER. At that time that was the thought?

Senator SMOOT. I think that was the thought.

Mr. TAYLER. That they were going to obey all the laws?

Senator SMOOT. I think that was the thought, Mr. Tayler.

Mr. TAYLER. You therefore gave the interpretation to the manifesto that the—

Senator SMOOT. I wish to say this: If you were referring to the manifesto in regard to polygamous cohabitation, as to the manifesto mentioning polygamous cohabitation, I want you to correct my answer on that.

Mr. WORTHINGTON. No; it did not refer to that.

Mr. VAN COTT. It did not refer to it.

Senator SMOOT. All right, then.

Mr. TAYLER. But as growing out of the manifesto, the purpose was to obey all the laws, just as Wilford Woodruff said they would?

Senator SMOOT. I never have been taught anything in my life but to obey the laws of my country.

Mr. TAYLER. I was not applying it to you, Senator.

Senator SMOOT. Well, I thought you were.

Mr. TAYLER. You have been taught always to obey the law and you expect other people to do the same, do you not?

Senator SMOOT. Yes.

Mr. TAYLER. Do you understand that Joseph Smith is obeying the law?

Senator SMOOT. I do not know. I heard his testimony here that he was living with his wives. I do not know that he is cohabiting with them. If he is, he is not living the law; and he did say that in the past he had broken the law of the land. But I rather think that is brought about in this way, that, as I stated here this morning, from the date, or shortly after the date, of the manifesto the cases that were then in court—at least many of them—were dismissed, and when the docket was clear there were very, very few prosecutions. The officers having in hand the prosecution of this class of cases were appointed by the Government, and I think that being the case, and on account of the discussion that came up at the constitutional convention (and the habit that has been growing there has instilled it in the hearts of the people there, or the minds of those that are in that condition), that the people would tolerate it, at least, and they were in a position where they did not know what to do.

The CHAIRMAN. Pardon me, Senator. I do not think you understand the question. I wish the reporter would read the question to the Senator, in fairness to him.

The reporter read as follows:

“Mr. TAYLER. Do you understand that Joseph Smith is obeying the law?”

The CHAIRMAN. That is the question.

Senator SMOOT. Do you mean to-day?

Mr. TAYLER. I know nothing more about it than that he testified on that subject here.

Mr. WORTHINGTON. I think he did answer the question, Mr. Chairman.

Mr. VAN COTT. I ask to have the answer read, if there is any discussion as to whether he answered it.

Senator BEVERIDGE. The part of the answer that was not responsive to the question was the latter part. He went on to say that if such and such were true, then he was disobeying the law. Then he proceeded to say, "It comes about in this way;" and for the life of me I, for one, could not connect his explanation as to how it did come about.

The CHAIRMAN. Mr. Reporter, will you read the question again?

Senator BEVERIDGE. His explanation did not explain.

The CHAIRMAN. Repeat the question.

Senator SMOOT. Mr. Chairman, just take that same question and leave the explanation off.

The CHAIRMAN. That is entirely satisfactory, only I thought that perhaps you did not understand the question exactly; and I would like to have it answered.

The reporter again read the question, as follows:

"Mr. TAYLER. Do you understand that Joseph Smith is obeying the law?"

The CHAIRMAN. That is a simple question.

Mr. VAN COTT. Yes; and it has been answered.

Senator SMOOT. I understand that Joseph F. Smith said that he had not obeyed the law in the past, but I can not say what he is doing now.

The CHAIRMAN. The question is, Do you understand he is disobeying the law?

Senator SMOOT. No; I do not, Mr. Chairman.

The CHAIRMAN. You do not so understand?

Senator SMOOT. No.

Mr. TAYLER. Of course I am not asking you for knowledge, but for your understanding.

Senator SMOOT. And I say that, Mr. Tayler.

Mr. TAYLER. You do not understand anything about it?

Senator SMOOT. I understand that he has broken the law. There is no doubt in my mind.

Mr. TAYLER. Did you not understand that he did disobey the law; that he had, by plural wives, some ten or twelve or more children after the manifesto?

Senator SMOOT. I heard it in his testimony.

Mr. TAYLER. You heard him say that?

Senator SMOOT. He testified to it.

Mr. TAYLER. You heard his testimony throughout, did you?

Senator SMOOT. Most of it. I was here.

Mr. TAYLER. Did he not leave on your mind the impression that he proposed to continue to disobey the law, and did he not so frankly say in effect?

Senator SMOOT. I rather think he said that he did not know but what he would continue to live with his wives. I do not know whether he intends to cohabit with them or not.

Senator DILLINGHAM. Does not the evidence show what he said?

Senator BEVERIDGE. There is no necessity for stating what the evidence shows. It is a matter of record.

The CHAIRMAN. There is no doubt about that. But, Senator, let me call this to your attention. The committee want to know about that. Mr. Smith himself testified before the committee, if you remember, that he had had eleven children since the manifesto.

Senator SMOOT. I remember that, Mr. Chairman.

The CHAIRMAN. You remember that?

Senator SMOOT. Yes.

The CHAIRMAN. By his five several wives?

Senator SMOOT. Yes.

Mr. WORTHINGTON. But that he had not had one for four years.

The CHAIRMAN. That does not matter. It was since the manifesto.

Senator SMOOT. I remember that.

The CHAIRMAN. Now, remembering that, what is your answer to that question?

Senator SMOOT. Why, Mr. Chairman, I could not say that he has lived with those wives since——

The CHAIRMAN. But he has said himself he has, and has had children.

Senator SMOOT. Oh, he has since the manifesto.

Senator BEVERIDGE. Is not that a violation of the law?

Senator SMOOT. It is a violation of the law.

The CHAIRMAN. I thought you did not want to put yourself in the position——

Senator SMOOT. I did not know that was the direct question.

Mr. WORTHINGTON. I think you misunderstood him, Mr. Chairman. He said quite clearly that he was violating the law in cohabiting with those wives, but that he did not know whether he was violating the law now.

The CHAIRMAN. I understood the witness to say that he did not know whether Mr. Smith was cohabiting with them now, to-day, this minute.

Senator SMOOT. I do not want to go into technicalities, Mr. Chairman.

The CHAIRMAN. I knew you did not want to leave it that way. I wanted to have it made plain. Go ahead, Mr. Tayler.

Mr. TAYLER. The question I have asked the Senator has answered, without disrespect to him at all, as I supposed he would answer it; that is, whether he understood that Joseph F. Smith was living to-day in violation of the law, and, notwithstanding what President Smith said at the hearing here last spring, he says he does not know anything about it or have any understanding about it. You know Apostle John Henry Smith, of course?

Senator SMOOT. I do.

Mr. TAYLER. You understand he is violating the law?

Senator SMOOT. He has violated the law since the manifesto.

Mr. TAYLER. And do you understand that he is now?

Senator SMOOT. If I was going to express an opinion, I would say yes; but I would not like to do that.

Mr. TAYLER. I will put it back eight or ten weeks, Senator, because I have not heard from Mr. Smith since he testified.

Senator SMOOT. I think so, up to the time he testified here.

Mr. TAYLER. Do you remember the ground—the reason—that he gave for violating the law?

Senator SMOOT. As I remember it, it was that those wives were his; that he owed an obligation to them; that he would have felt that it was his duty to act as a husband to them; and that he would take his chances with the law in violating it.

Mr. TAYLER. And did he not say that he took those obligations with the plural wife with the approval of God?

Senator BEVERIDGE. Mr. Tayler, may I ask whether you are not examining the present witness as to what some other witness said here?

Mr. WORTHINGTON. That is just what he is doing.

Mr. TAYLER. I am cross-examining the witness.

Mr. WORTHINGTON. I submit that all he has a right to ask this witness is what impression is on his mind from that testimony. We have the testimony here and can read it for ourselves, and although he may misunderstand it it does not affect the question of his position here.

The CHAIRMAN. Do you take exception to the statement of what it was?

Mr. WORTHINGTON. I object to his being asked about what the testimony is, as a useless consumption of time.

Mr. TAYLER. Not at all.

Senator HOPKINS. I suppose that is preliminary to the other questions Mr. Tayler will put. First he wants to know whether this witness understands what the other witness said, and then, after he understands that, to put the question as to the interpretation that he puts upon it.

Mr. TAYLER. Precisely. That is it exactly.

The CHAIRMAN. I suppose it is the same idea as the Chair had in mind when he called the attention of the witness to the fact that Mr. Smith had testified he had 11 children by his five different wives since the manifesto, so that he could answer the question whether in his judgment he committed the crime.

Senator KNOX. On Senator Hopkins's suggestion, the proper form of question would be "assuming that he testified so and so."

Mr. TAYLER. I think it would be very much better to have the impression that comes to the witness from a positive knowledge of what his ears did hear than a mere assumption that somebody might have said something, because this witness has had time to have impressions made upon him, and he heard his testimony. But if he misunderstood it or does not understand it as I understand it, then he is entitled to the benefit of that situation in which he finds himself.

You heard John Henry Smith testify?

Senator SMOOT. I was out some little, Mr. Tayler, but I think I heard him testify the greater part of the time.

Mr. TAYLER. Now, what was it I was saying when I was interrupted? I want to continue that.

The reporter read as follows:

"Mr. TAYLER. And did he not say that he took those obligations with the plural wife with the approval of God?"

Senator SMOOT. I can not just remember whether those were the words or not, Mr. Tayler.

Mr. TAYLER. Do you understand that is the view that all good polygamist Mormons take of their relations to their plural wives today, that they take upon them the obligations of husband to a plural wife with the approval of God?

Senator SMOOT. I should think that would be what they thought.

Mr. TAYLER. And that John Henry Smith said that no law of the land could interfere with or dissolve that relation?

Senator SMOOT. No; I do not remember him saying that.

Mr. TAYLER. Do you not understand that that is the view that good polygamist Mormons take?

Senator SMOOT. No; I do not understand that, Mr. Tayler.

Mr. TAYLER. Let me call your attention, then, while that is being looked for, to another matter. Were you present at a conference of your people last June?

Senator SMOOT. What conference?

Mr. TAYLER. When President Joseph F. Smith delivered an address. I do not know that it was a conference, but it was a service on Sunday.

Senator SMOOT. I never was in my life in the tabernacle to a service that I remember of, with the exception of one, outside of the general conferences, so I was not there in June.

Mr. TAYLER. You recall, doubtless, the testimony in this case in which it was stated that Joseph F. Smith said to the assembled multitude that filled the tabernacle, referring to the subject of his wives:

"I dare not and can not cast aside those to whom God, in his infinite wisdom, has joined me for time and for eternity."

Mr. WORTHINGTON. Is that Doctor Buckley's testimony?

Mr. TAYLER. Yes. I am reading from page 9—

"I dare not and will not cast aside the mothers of my children. If I did I should forfeit all the blessings that God will bestow upon those who are faithful to their trust. If I did I should be forever damned and be forever deprived of the companionship of God, my wives, my sons, my daughters, and all those most dear to me throughout eternity.

"I am not a coward nor a craven thing. I may be driven to the last extremity, but I would not shrink from exile, imprisonment, or any earthly hardship that might come to me in fulfilling my duty to God and man. When it comes, however, to throwing aside all hope of future happiness, all expectation of continued union with those I love, I will not make such a sacrifice. I dare not and can not. I am not prepared to forfeit an eternal inheritance by yielding to the customs of the world. I can not, I dare not, risk eternal damnation by putting away the responsibilities which God has placed upon me. But rather I will be true to my duty, true to my trust, true to my God, my wives, and my children."

Do you understand that that fairly represents the views of good Mormon polygamists?

Senator SMOOT. The wording of that, Mr. Tayler, I think, may be construed just as it is, that he will not abandon them, and I rather think myself that if he did abandon his families, throw them off, take no care of them at all, he would be condemned, not only by man, but he would be condemned of God.

Mr. TAYLER. And your interpretation of this is that what he means to declare against is the physical, absolute desertion of these women?

Senator SMOOT. From the language there, although I do not say that he even said that.

Mr. TAYLER. Well, do you think, Senator, that he meant to intimate anything different than that he intended to continue the relation of husband to these several wives, just as he had been doing before?

Senator SMOOT. I do not think I ought to put that construction on it, Mr. Tayler.

Mr. TAYLER. That is to say, you think he meant, by stating what he would do, that he was going to do something less and something different from what he had been doing?

Senator SMOOT. Well, I could not say that.

Mr. TAYLER. Do you not understand, Senator, that he meant by this that he was going to be a husband to all these wives?

Senator SMOOT. No; I do not understand that, even from that language.

Mr. WORTHINGTON. Even from what?

Senator SMOOT. Even from that language.

Mr. WORTHINGTON. The committee should understand that that is what purports to be a report made a week or two afterwards of the sermon from memory, not a shorthand report.

Mr. TAYLER. What do you understand to be the meaning of the expression, "I am not prepared to forfeit an eternal inheritance by yielding to the customs of the world?"

Senator SMOOT. I do not know what he really meant by that, if he said it.

The CHAIRMAN. Assuming he said it, have you any opinion as to what he meant by it?

Senator SMOOT. No; I could not say, Mr. Chairman, what was meant.

Mr. TAYLER. Do you remember this statement by John Henry Smith——

Mr. WORTHINGTON. What page?

Mr. TAYLER. I wanted to find another reference to that before I took that up. It is on page 286, Volume II.

I asked this question:

"You propose to continue the practice that you then started"——

You understand what that practice is that he was referring to, do you not?

Senator SMOOT. I think I do.

Mr. TAYLER. That is, the living with a plural wife.

Senator SMOOT. Yes.

Mr. TAYLER (reading): "Upon the theory that there is a higher obligation upon you than the obligation to obey the law?"

"Mr. SMITH. Yes; I must suffer the consequences, if my countrymen see fit to punish me."

Senator SMOOT. I remember John Henry making that statement.

Mr. TAYLER. You understand that is the view that is taken by good Mormon polygamists, do you not?

Senator SMOOT. No; I understand that is the view taken by John Henry Smith.

Mr. TAYLER. Do you understand it is the view taken by Mormon polygamists?

Senator SMOOT. No; I do not, Mr. Tayler, generally.

Mr. TAYLER. You do not?

Senator SMOOT. I know my own father, when the law was passed, obeyed the law.

Mr. TAYLER. He lived up to the law?

Senator SMOOT. Absolutely.

Mr. TAYLER. Did he desert his wives?

Senator SMOOT. He did not; that is, he provided for them.

Mr. TAYLER. He provided for them; yes. Did you understand that John Henry Smith was asked this question as related to the matter as to whether he would provide for his wife?

Senator SMOOT. I did not so understand it.

Mr. TAYLER. Now, Senator, that was a digression that happened to come in. We may get back to that again in another form. You remember the escheat case?

Senator SMOOT. Yes; I remember of it.

Mr. TAYLER. That is, you remember the litigation respecting the property of the Mormon Church which the Government had taken possession of?

Senator SMOOT. I remember the case.

Mr. TAYLER. And the litigation and negotiations that preceded that, with a view of repossessing itself of that property?

Senator SMOOT. I am not very conversant with that.

Mr. TAYLER. I mean generally.

Senator SMOOT. I know there was such a move.

Mr. TAYLER. You know that that situation arose?

Senator SMOOT. Yes.

Mr. TAYLER. You know, as you remarked a little while ago, that a good many polygamist Mormons were in hiding at one place or another, and that their families were——

Senator SMOOT. Scattered.

Mr. TAYLER. Scattered and suffering, and that there was a strong appeal made to the Government?

Senator SMOOT. There was.

Mr. TAYLER. You get down now to a time when you were about 30 years old, about 1891 and 1892?

Senator SMOOT. Yes; about that.

Mr. TAYLER. You remember the petition for amnesty?

Senator SMOOT. I have read it.

Mr. TAYLER. You knew about it at the time, did you not?

Senator SMOOT. Yes; I knew of it.

Mr. TAYLER. Did you understand that that plea for amnesty, addressed to the President of the United States, pledged the Mormon people to obedience to all of the laws?

Senator SMOOT. I do not remember the specific terms, but I rather think that that is what was intended.

Mr. TAYLER. You remember that President Harrison did give amnesty, and later that President——

Mr. WORTHINGTON. Amnesty to those who should obey the law.

Mr. TAYLER. And President Cleveland followed it up with another amnesty proclamation?

Senator SMOOT. Yes; to those who obeyed the law.

Mr. TAYLER. Do you remember any of the signers of the application or plea for amnesty?

Senator SMOOT. I think the most of the twelve apostles and presidency at that time signed it.

Mr. TAYLER. And a large number of the present membership of the twelve apostles signed that plea for amnesty?

Senator SMOOT. From John W. Taylor up, I should judge.

Mr. TAYLER. What?

Senator SMOOT. From John W. Taylor on up, I should judge. I do not remember the junior apostle at that time.

Mr. TAYLER. Just one moment.

Senator BEVERIDGE. Well, as a matter of fact, do you remember or do you not?

Senator SMOOT. Yes. Senator, he asked me, you know, whether a great many of the present——

Senator BEVERIDGE. Yes; whether they signed this petition for amnesty.

Senator SMOOT. No; he asked me if a great many of the present apostles did not sign it.

Senator BEVERIDGE. I know.

Mr. WORTHINGTON. He says, Senator, he thinks those from Taylor up did. That is, in the order of precedence.

Senator BEVERIDGE. Your answer to that was "I should judge." It is a matter of memory.

Senator SMOOT. Yes; that is all.

Mr. TAYLER. To refresh your recollection. I want to ask a few questions about that; whether this, according to your recollection of the list, is correct——

Mr. WORTHINGTON. What page have you, Mr. Tayler?

Mr. TAYLER. Page 490. Wilford Woodruff, George Q. Cannon, Joseph F. Smith, Lorenzo Snow, Franklin D. Richards, Moses Thatcher, Francis M. Lyman, H. J. Grant, John Henry Smith, John W. Taylor, M. W. Merrill, Anthon H. Lund, and Abraham H. Cannon—13 names.

Now, Senator, is it not popular knowledge and do you not know as well as we can know such things, that almost all of the signers of that plea for amnesty continued to violate the law for the violation of which amnesty was prayed for?

Senator SMOOT. I can not say that, Mr. Tayler.

Mr. TAYLER. Let us take them separately. George Q. Cannon?

Mr. WORTHINGTON. Wilford Woodruff is the first one.

Mr. TAYLER. I understand Wilford Woodruff did not violate it.

Mr. WORTHINGTON. Oh, I thought you were asking him about them all.

Senator SMOOT. Yes; I understand that Wilford Woodruff had not violated it.

Mr. TAYLER. That he obeyed the law?

Senator SMOOT. He obeyed it.

Mr. TAYLER. He was the head of the church?

Mr. SMOOT. Yes.

Mr. TAYLER. George Q. Cannon?

Senator SMOOT. I understand he obeyed the law. I want to say, Mr. Tayler, that I do not know that.

Mr. TAYLER. I understand. Joseph F. Smith?

Senator SMOOT. That he did not.

Mr. TAYLER. Lorenzo Snow?

Senator SMOOT. I understand that he did.

Mr. TAYLER. That he did obey the law?

Senator SMOOT. That he did obey the law.

Mr. TAYLER. Franklin D. Richards?

Senator SMOOT. I guess he only had one wife at that time.

Mr. TAYLER. Moses Thatcher?

Senator SMOOT. Well, it is reported that Moses Thatcher did not. I am not sure, though, as to that.

Mr. TAYLER. Did you hear him testify that he was a polygamist?

Mr. WORTHINGTON. That is not the question.

Mr. TAYLER. I am asking for his information—what he knows.

Mr. WORTHINGTON. The question is not whether he was a polygamist, but whether he lived in polygamous cohabitation after this pledge.

Senator SMOOT. It is understood he is a polygamist.

Mr. TAYLER. Do you know whether he violated the law?

Senator SMOOT. I do not, Mr. Tayler.

Mr. TAYLER. Francis M. Lyman?

Senator SMOOT. Yes; he violated the law.

Mr. TAYLER. Heber J. Grant?

Senator SMOOT. All I can say is from what I heard them testify here—that is, that they think he had. President Smith testified—

Mr. TAYLER. Did not Heber J. Grant plead guilty to a violation of the law after that?

Senator SMOOT. I rather think he did, come to think of it.

Mr. TAYLER. John Henry Smith?

Senator SMOOT. Yes; he testified so.

Mr. TAYLER. John W. Taylor?

Senator SMOOT. I think so.

Mr. TAYLER. M. W. Merrill?

Senator SMOOT. I think so.

Mr. TAYLER. And Abraham H. Cannon?

Senator SMOOT. He certainly did if he married Lillian Hamlin.

Mr. TAYLER. Abraham H. Cannon lived with plural wives apart from the Lillian Hamlin episode, did he not?

Senator SMOOT. Well, he had them.

Mr. TAYLER. After the manifesto?

Senator SMOOT. Yes.

Mr. TAYLER. Now, you say you remember the terms upon which amnesty was granted?

Senator SMOOT. That those who obeyed the law would receive the grant of amnesty.

Mr. TAYLER. You recall that in the granting of amnesty that followed that plea some time, the President says:

"It is represented that since the date of said declaration the members and adherents of said church have generally obeyed said laws and have abstained from plural marriages and polygamous cohabitation"—

And by this petition, signed by the officials of the church, the one to which we have just referred—

"pledging the membership thereof to a faithful obedience to the laws against plural marriage and unlawful cohabitation, have applied to me to grant amnesty for past offenses against said laws, which request a very large number of influential non-Mormons residing in the Territories have also strongly urged. * * *

"Now, therefore, I, Benjamin Harrison, President of the United States, by virtue of the powers in me vested, do hereby declare and grant a full amnesty and pardon to all persons liable to the penalties of said act by reason of unlawful cohabitation under the color of

polygamous or plural marriage, who have, since November 1, 1890, abstained from such unlawful cohabitation."

Do you understand the signers of that plea pledged their faith to the Government of the United States that they and their people, in so far as they could influence them, would obey the law against polygamous cohabitation?

Senator SMOOT. From the amnesty as read I would take it that they did.

Mr. TAYLER. Did you ever make any complaint to them or anybody else that they had not remained true to the promise thus made?

Senator SMOOT. Mr. Tayler, the reason I have not done that is on account of the conditions as they existed. When I went into the quorum of the apostles I found a condition there that was tolerated by the people of our State, and I did not think it would hasten matters nor bring them to any quicker conclusion by my setting myself up as a judge, or interfering.

Mr. TAYLER. You knew about this, you say, at the time?

Senator SMOOT. No; I did not say that.

Mr. TAYLER. Or did you? It was a question.

Senator SMOOT. No; I did not.

Mr. TAYLER. You did not know about the application for amnesty?

Senator SMOOT. Oh, yes; the application for amnesty, but I mean I did not know as to whether John Henry Smith was unlawfully cohabitating.

Mr. TAYLER. It is unimportant what the state of your knowledge is as to what they were doing at that time.

Senator SMOOT. It was understood, though, that it was practiced in the State of Utah.

Mr. TAYLER. I want now to revert to what I would have called your attention to, but I could not find the place——

Mr. WORTHINGTON. Now, give me the page again, Mr. Tayler.

Mr. TAYLER. Page 311—and I ask you if this represents the view of the good Mormon polygamist who is to-day in the status that John Henry Smith is in, or was in when he testified? I said:

"Exactly. That is to say, your own case, you understand that the rule of the church is against polygamous cohabitation, do you?"

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. And the law of the land is against it?"

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. But you propose to continue to violate the law of the land and the rule of the church, as a purely personal matter with yourself, and to take such consequences as may be imposed upon you for it?"

"Mr. SMITH. Neither the law of the land nor of church can take away obligations and contracts and relieve me of them as made between me and my God."

Senator SMOOT. I do not so understand it. I know a great many men who are in polygamy who do not live with their wives, and that is what I understand John Henry to claim that he did.

Mr. TAYLER. Now, those who do live with their wives do take that view, do they not, and must take that view?

Senator SMOOT. No; I——

Mr. WORTHINGTON. I submit, Mr. Chairman——

Mr. TAYLER. Let your witness take care of himself.

Mr. WORTHINGTON. Mr. Tayler, I will try to take care of you——

Mr. TAYLER. That is right.

Mr. WORTHINGTON. When you ask such a question as that. I ask the judgment of the committee as to whether that is a proper question to ask of any witness.

Mr. TAYLER. He can answer it by saying he does not know.

Mr. WORTHINGTON. I do not care whether he can or not. My objection is that you have no right to ask such a question as that.

Mr. TAYLER. Well, I ask it anyhow.

Mr. WORTHINGTON. And I object to it. He is asking, Mr. Chairman, the view taken by polygamists in general of their relation, as if the witness knew anything about it.

Mr. TAYLER. He is an apostle of the church.

The CHAIRMAN. Suppose you ask him, Mr. Tayler, if he knows what the general view is.

Mr. TAYLER. I will ask the reporter to read my question.

The reporter read as follows:

“Mr. TAYLER. Now, those who do live with their wives do take that view, do they not, and must take that view?”

Mr. TAYLER. Just add to the question, “do you not think?”

Mr. WORTHINGTON. Do you know what the question is now, Senator?

Senator SMOOT. No; I do not know what it is.

Senator DILLINGHAM. I thought the chair made a ruling on that.

Mr. WORTHINGTON. I do not think the modification helps the matter at all. He is asking Senator Smoot what some people think, without his knowing at all what they think.

The CHAIRMAN. There is no trouble about it. Repeat the question, Mr. Reporter.

The reporter read as follows:

“Mr. TAYLER. Now, do you not think that those who do live with their wives do take that view, and must take that view?”

“Senator SMOOT. No; I ——”

Senator SMOOT. I can not say that, Mr. Tayler.

Mr. TAYLER. Now, John Henry Smith went on. I said: “Precisely: and that is the interpretation that you and the apostles put upon those relations?”

To which he replied:

“So far as all those obligations coming up to the date of the manifesto, formed previously”——

I said:

“And formed previously?”

And he said:

“Yes, sir.”

Then I asked the question:

“That the relation that you contracted, and others like you, prior to the manifesto, to your several wives, was a relation which you contracted with the approval of God?”

He answered:

“That is it.”

I said:

“And that no law of the land can dissolve that?”

“Mr. SMITH. No, sir.”

“Mr. TAYLER. Or interfere with that?”

"Mr. SMITH. No, sir."

Senator SMOOT. I do not agree with John Henry Smith.

Mr. TAYLER. Do you interpret that as a defiance of law?

Senator SMOOT. No; I would not say that, Mr. Tayler. I agree with him that men who take their plural wives take them, as they believe, by the sanction of God, or did prior to the manifesto, as he states there, but I do not believe that the law of the land can not interfere. That is the difference between John Henry Smith and myself, if there is a difference on that point.

Mr. TAYLER. Physically it can interfere with it, do you mean?

Senator SMOOT. That is what I mean.

Mr. TAYLER. Otherwise do you question his statement?

Senator SMOOT. Well, the balance of it—I forget what it is. Just read it again, Mr. Tayler. I stated in the first place, you know, that I—

Mr. TAYLER (reading):

"That no law of the land can dissolve that relation or interfere with it."

Senator SMOOT. Well, no law of the land, of course, could dissolve it, but the law of the land could interfere with it.

Mr. TAYLER. Because the law of the land is strong; that is the reason, is it not?

Senator SMOOT. Why, certainly.

Mr. TAYLER. Were you interested in public affairs by the time the Roberts case came along?

Senator SMOOT. You mean in the House?

Mr. TAYLER. Yes.

Senator SMOOT. Oh, yes.

Mr. TAYLER. You were in politics then?

Senator SMOOT. I was.

Mr. TAYLER. To some extent?

Senator SMOOT. I was.

Mr. TAYLER. You became an apostle early in 1900, shortly after the Roberts case was disposed of?

Senator SMOOT. A year and a half after, or something like that.

Mr. TAYLER. The Roberts case was disposed of in January, 1900.

Senator SMOOT. Well, it was right after it was disposed of, then. His election was in 1898, and then, of course, he would come here in 1899. That is about right, I suppose.

Mr. TAYLER. You were naturally interested in the Roberts case? You followed that situation?

Senator SMOOT. Yes; I did. I want to say that as far as Mr. Roberts's election is concerned, he would not have been elected if I could have helped it.

Mr. TAYLER. He was the Democratic candidate for Congress that year?

Senator SMOOT. Yes.

Mr. TAYLER. You were not supporting the Democratic ticket, were you?

Senator SMOOT. No; I was not.

Mr. TAYLER. You recall that in the debate in the Roberts case there were charges made against various prominent Mormons as being polygamists?

Senator SMOOT. No; I do not recall that, Mr. Tayler. There may have been, though.

Mr. TAYLER. Do you mean there may have been charges?

Senator SMOOT. Yes; that is what I mean.

Mr. TAYLER. Do you mean that you know you did not know it?

Senator SMOOT. That there were polygamists?

Mr. TAYLER. That there were charges made against various prominent Mormons that they were polygamists and living in polygamy.

Senator SMOOT. There may have been charges that they were polygamists.

Mr. TAYLER. I know; but you do not catch the thought. Do you mean to say that you did not know that any such charges were made?

Senator SMOOT. I understand the charge was made against Brigham H. Roberts, and it may have been against others.

Mr. WORTHINGTON. Senator, please do not answer about what may have been. It is only what you recollect. We can all guess what may have been.

Mr. TAYLER. I want to know whether you say—

Senator SMOOT. I recollect that B. H. Roberts was charged with living with more than one woman, and I believed it.

Mr. TAYLER. Do you recollect that charges were made against other prominent Mormons that they were living with plural wives?

Senator SMOOT. No; I do not remember that that came in the discussion at all.

Mr. TAYLER. Do you read the Deseret News occasionally?

Senator SMOOT. Yes.

Mr. TAYLER. At that time were you reading the Tribune?

Senator SMOOT. I have always done so. It made no impression upon me, though, Mr. Tayler; I can say that.

Mr. TAYLER. That is, the charges of polygamous living made no impression upon you?

Senator SMOOT. No; any more than the whole case. I did not follow it any more than simply, as a matter of fact, as to how it came out.

Mr. TAYLER. You had no special interest in what developed there about the Mormon people or the Mormon Church?

Senator SMOOT. That was Mr. Roberts; it was not the Mormon Church.

Mr. TAYLER. But do you not know that the Mormon Church was attacked there on the floor, and that the speech in which the attack was made was printed in Salt Lake City?

Senator SMOOT. It may have been.

Mr. TAYLER. And that the Deseret News attacked the maker of that speech with great vigor—said he was slandering the church and the State? Do you recall anything about that?

Senator SMOOT. Not definitely enough to say.

Mr. TAYLER. Did you ever hear of Mr. Landis's speech in the Roberts case?

Senator SMOOT. I heard that Mr. Landis made a speech.

Mr. TAYLER. But you did not know anything about what was in it?

Senator SMOOT. The impression that was on my mind—I do not know that I ever read it—was that it was an attack upon B. H. Roberts's polygamous living.

Mr. TAYLER. Now, it was in the spring of that year that you were elected an apostle?

Senator SMOOT. In April, 1900.

Mr. TAYLER. And it was in that year also that you harbored an ambition to come to the United States Senate?

Senator SMOOT. I was thinking of it then; yes.

Mr. TAYLER. You were thinking of it?

Senator SMOOT. Yes.

Mr. TAYLER. And you had a talk, did you not, with President Snow about it?

Senator SMOOT. I told you so this morning, I think.

Mr. TAYLER. You did?

Senator SMOOT. I had a talk with the presidency about it.

Mr. TAYLER. They refused to permit you to be a candidate?

Senator SMOOT. No; they did not.

Mr. TAYLER. They did not?

Senator SMOOT. Oh, you mean in 1900?

Mr. TAYLER. Yes.

Senator SMOOT. No; I did not have any talk then about my candidacy. I never asked then to be a candidate. I was thinking of it, I said, in 1900.

Mr. TAYLER. You were thinking of it, but you did not make any request of the first presidency?

Senator SMOOT. I did not.

Mr. TAYLER. The first presidency did not give their consent to any high church official being a candidate that year, did it?

Senator SMOOT. No; I do not think it did, Mr. Tayler.

Mr. TAYLER. Did you understand the first presidency favored the election of Senator Kearns?

Senator SMOOT. No; I could not say that.

Mr. TAYLER. Did you never hear that?

Senator SMOOT. I have heard that a part of the presidency did not.

Mr. TAYLER. What?

Senator SMOOT. I have heard that a part of the presidency did not favor his election.

Mr. TAYLER. Which part?

Senator SMOOT. I could not say. I can not say that any of them favored it, because I do not know.

Mr. TAYLER. You never heard any talk about that?

Senator SMOOT. Oh, I heard rumor about it.

Mr. TAYLER. Did you hear that President Snow said that there would not be any apostle candidate for the Senatorship that year?

Senator SMOOT. No; I did not hear that he said it.

Mr. TAYLER. You did not hear that?

Senator SMOOT. No.

Mr. TAYLER. Did you hear that President Snow favored the election of Senator Kearns?

Senator SMOOT. I heard rumors of it. I know nothing of it.

The CHAIRMAN. Senator, just let me ask you this. I will first ask the reporter to read the question.

The reporter read as follows:

"Mr. TAYLER. Did you hear that President Snow favored the election of Senator Kearns?"

Mr. WORTHINGTON. Does that mean, did he hear President Snow say it?

The CHAIRMAN. No; did you hear that?

Senator SMOOT. I have heard many people say it on the street, Mr. Chairman, but I never heard anybody say it who claimed that he heard President Snow say it.

The CHAIRMAN. All you were asked was for the rumor. I want you to answer the question. I am anxious that you should answer these questions, Senator.

Mr. WORTHINGTON. You are anxious that he should answer as to what the rumors were on the street, do I understand?

The CHAIRMAN. Not at all. The Chair has intimated no such thing. Mr. Reporter, will you read the question again?

The reporter read as follows:

"Mr. TAYLER. Did you hear that President Snow favored the election of Senator Kearns?"

The CHAIRMAN. That is a simple question. Did you hear it?

Senator SMOOT. I stated, Mr. Chairman, that I had heard it, but from nobody who claimed that President Snow had stated so.

The CHAIRMAN. You have not yet been asked from what source you heard it, or who said it. You were asked if you heard the rumor.

Senator SMOOT. Yes.

The CHAIRMAN. That is all, then.

Mr. TAYLER. Was it not generally reported, Senator?

Senator SMOOT. How generally I could not say.

Mr. TAYLER. Let me put it this way: Did you not hear it in such a way as to satisfy you that the fact existed?

Senator SMOOT. No; I could not say that much. I know that there was a rumor. I never was asked by President Snow to support Thomas Kearns.

Mr. TAYLER. No, I was not intimating anything of that sort. I was referring, of course, only to President Snow and what he was generally understood to have—

Senator SMOOT. President Snow never asked me, nor I do not know positively what President Snow's views were.

Mr. TAYLER. You had no talk with him at all about the Senatorship in 1900?

Senator SMOOT. About the Senatorship? Oh, I had a talk with him just in the office one day.

Mr. TAYLER. What was that talk?

Senator SMOOT. Why, the talk was this: The question of whether—I told him that some of my friends were asking me if I would run for the Senate, and I said "I do not know yet whether I will run or not." I was not a candidate before the conventions; and among other things that were said, we talked over the different candidates, but he did not express himself as favorable or unfavorable to me or to the others. It was a talk over conditions.

Mr. TAYLER. He did not advise you to be a candidate?

Senator SMOOT. He did not.

Mr. TAYLER. Nor urge you to be a candidate?

Senator SMOOT. He did not.

Mr. TAYLER. Or express any interest at all in the subject?

Senator SMOOT. Not particularly.

Mr. TAYLER. You mean you did not urge it upon him, and he did not rise to——

Senator SMOOT. We were in the office, and we talked over the situation.

Mr. TAYLER. When did you make up your mind not to be a candidate; after that talk?

Senator SMOOT. After that talk—well, yes, some time after that talk.

Mr. TAYLER. In 1902 you went and saw President Smith?

Senator SMOOT. Yes; I saw President Smith with his counselors in the office there.

Mr. TAYLER. How did the subject arise then?

Senator SMOOT. This is the way the subject arose. I told President Smith that if I was going to be a candidate for the Senate of the United States I wanted to know early, because if I was going to do it I wanted to commence and form an organization, and by that organization select men who would be favorable to me in the legislature; that I thought I ought to know early, and, as I said this morning, I asked if I could receive a leave of absence to do it, and they granted it.

Senator OVERMAN. Suppose they had refused the consent; would you have run, Senator?

Senator SMOOT. That would depend upon conditions, Senator.

The CHAIRMAN. Take the conditions as they existed at that time. As the conditions then were, if the president had refused to grant you leave to run, would you have run?

Senator SMOOT. Well, I do not know. I would have consulted with my friends and we would have talked the matter over. If I had decided to run, why I would have simply resigned from the apostleship, and if I had concluded not to resign I would not have run for the Senate.

Senator OVERMAN. If you had run, would you have been out of harmony with the church?

Senator SMOOT. Well, I would have broken that rule, and I do not think any man ought to believe in a rule and then break it.

Senator OVERMAN. The question is, Would you have been out of harmony with the church if you had, like Moses Thatcher was?

Senator SMOOT. More than likely I would; just the same as if I was the manager of the woolen mills at the same time. I could not have left there and run for the Senate without some arrangement being made, and I did make arrangements.

Mr. VAN COTT. Do you understand that the question means if you had resigned you would have been out of harmony?

Senator SMOOT. Oh, no; not if I had resigned.

Mr. TAYLER. You understand that your relation to the first presidency and the church is just the same as your relation to the woolen mill?

Senator SMOOT. Well, one is a business concern and the other is a religious concern.

Mr. TAYLER. I did not mean to——

Senator SMOOT. You could hardly compare me as manager of the Provo Woolen Mills with me as adviser to the president of the church.

Mr. TAYLER. Are you a director of the Provo Woolen Mill?

Senator SMOOT. I am president of the Provo Woolen Mills.

Mr. TAYLER. You are elected by the stockholders?

Senator SMOOT. Yes.

Mr. TAYLER. And the stockholders meet every year?

Senator SMOOT. Every year.

Mr. TAYLER. They can put you out if they want to?

Senator SMOOT. They can.

Mr. TAYLER. Unless you own a majority of the stock?

Senator SMOOT. Yes; unless I owned the majority of the stock.

Mr. TAYLER. How can they put you out of the quorum of twelve?

Senator SMOOT. By a majority of the twelve voting against me.

Mr. TAYLER. That is, by being deposed upon charges being made against you?

Senator SMOOT. Yes.

Mr. TAYLER. They would not do it without charges being made, would they?

Senator SMOOT. Certainly they would not.

Mr. TAYLER. Then the relation that you sustain in the one case is not like the other, is it?

Senator SMOOT. I stated it was not. One is a business concern and the other religious.

Mr. TAYLER. I am not referring to whether it is business or ecclesiastical. Did you get into the presidency of the woolen mill the same way you got into the quorum of the twelve?

Senator SMOOT. I do not think so, Mr. Tayler.

Senator OVERMAN. To whom would you have resigned, Senator? Would you have sent your resignation to the president of the church?

Senator SMOOT. Oh, yes.

Senator OVERMAN. And he had a right to accept it?

Senator SMOOT. He and the twelve apostles could have accepted it; certainly.

Senator OVERMAN. Without submission to the conference?

Senator SMOOT. Certainly. I can resign from the church any minute that I want to.

Mr. WORTHINGTON. Without acceptance?

Senator SMOOT. Without acceptance.

The CHAIRMAN. You have that power now, to resign your position as an apostle?

Senator SMOOT. I have.

Mr. TAYLER. But the president is nominated—selected by the apostles, is he not?

Senator SMOOT. Yes; because they are the controlling quorum, after the president of the church dies, and until he is selected.

Mr. TAYLER. But the apostles themselves choose him?

Senator SMOOT. Why, certainly.

Mr. TAYLER. He has no power to depose an apostle?

Senator SMOOT. While he is alive?

Mr. TAYLER. Yes.

Senator SMOOT. Oh, certainly he has.

Mr. TAYLER. He has?

Senator SMOOT. Certainly.

Mr. TAYLER. The president can put an apostle out?

Senator SMOOT. If charges are filed.

Mr. TAYLER. No; but can the president do it?

Senator SMOOT. He would finally act upon it.

Mr. TAYLER. What would the apostles have to do with it?

Senator SMOOT. They would act as the quorum.

Mr. TAYLER. But the president then could not put him out alone, could he?

Senator SMOOT. He would have an appeal to the president, just the same as a member would from the high council to him.

Mr. TAYLER. Then it has to start in the quorum, does it, to get him out?

Senator SMOOT. If the charges are filed there; yes.

Mr. TAYLER. Where else would the charge be filed?

Senator SMOOT. With the presidency of the stake in which he lives, just the same as they were filed in Moses Thatcher's case.

Mr. TAYLER. Do you mean to say the president of the stake in which Moses Thatcher resided deposed him from the apostleship?

Senator SMOOT. I say they brought the charges.

Mr. TAYLER. Precisely.

Senator SMOOT. Moses Thatcher was tried by the presidency of the Salt Lake stake and high council on charges that were preferred against him, and if there were charges preferred against me, it would be tried by the presidency—

Mr. TAYLER. Hold on a minute. *

Senator SMOOT. By the president of the Utah Stake of Zion and the high council of the Utah Stake of Zion.

Mr. TAYLER. That would not depose you unless the apostles acted, would it?

Senator SMOOT. Yes. Then the apostles would act on my case, and then if I did not agree with that I would appeal it to the presidency of the church. They could disfellowship me.

Mr. TAYLER. Who?

Senator SMOOT. Why, the apostles; just the same as the membership of a quorum; but they can not take the apostleship away from me unless it is in the proper order, and that order is wherever there is a charge it goes to the presidency of the stake.

Mr. TAYLER. But is it not the apostles who take away from you your apostleship?

Senator SMOOT. No, sir.

Mr. TAYLER. Who does take it away?

Senator SMOOT. Why, the final judgment of that would be passed upon by the presidency of the church.

Mr. TAYLER. But the local stake officials do not deprive you or depose you of your apostleship?

Senator SMOOT. If the charges are proved, then they give judgment against me, and the presidency of the church then pass upon that judgment.

Mr. TAYLER. I understand; but it does not depose you because the local court finds against you?

Senator SMOOT. Yes; but it is always taken to the presidency.

Mr. TAYLER. Moses Thatcher was tried?

Senator SMOOT. He was, by the high council and presidency—

Mr. TAYLER. Precisely; and what happened to him?

Senator SMOOT. As I understand it, the charges were sustained against him.

Mr. TAYLER. What happened then? Did he not conform literally to the demand of the high council?

Senator SMOOT. I think he did.

Mr. TAYLER. Did he not make abject apologies?

Senator SMOOT. I think he did.

Mr. TAYLER. And so far as the high council was concerned, was not that the end of it?

Senator SMOOT. That was the end of it, so far as——

Mr. TAYLER. But, independent of that, did not the quorum of twelve depose him?

Senator SMOOT. I think it was the presidency, Mr. Tayler.

Mr. TAYLER. And the president after that?

Senator SMOOT. The presidency, I think.

Mr. TAYLER. You are sure that is all right, are you?

Senator SMOOT. That is as I understand it.

Mr. TAYLER. All I want is the fact.

Senator SMOOT. That is what I want to give you. That is as I understand the rule.

Mr. TAYLER. But as far as this trial before the high council was concerned, was not that all done and disposed of by the apology and recantation of Moses Thatcher?

Senator SMOOT. Why, certainly.

Mr. TAYLER. Did he not comply with the terms of their finding?

Senator SMOOT. That is just exactly where it started, and he complied with their findings; and so far as the charge was concerned in the high council, that was ended, we will say.

Mr. TAYLER. Yes.

Senator SMOOT. Now, as far as concerns his being deposed as an apostle, the apostles could disfellowship him, I suppose, the same as a seventy could be disfellowshipped from the seventies quorum; but that does not take his priesthood away from him.

Mr. TAYLER. We are not talking about the priesthood. Is it not a fact that in April, 1896, Moses Thatcher was not upheld at the general conference of the people? That is to say, the president of the church or the quorum of apostles did not present his name?

Senator SMOOT. The president of the church did not present his name in April, 1896.

Mr. TAYLER. So that he was not upheld?

Senator SMOOT. He was not sustained.

Mr. TAYLER. Then if he was not sustained, he was not an apostle, was he?

Senator SMOOT. Well, yes; he could have been an apostle and not be sustained.

Mr. TAYLER. Very well. Let us not take time about that.

Senator SMOOT. No.

Mr. TAYLER. Then is it not a fact that in November following, at a council of the apostles, held in Salt Lake City, Moses Thatcher was dropped from the council of 12 apostles?

Senator SMOOT. I think the presidency of the church may have had the 12 apostles as advisers at that meeting, and he may have been deposed at that meeting.

Mr. TAYLER. Do you question this statement which I find in Andrew Jenson's Church Chronology?

Senator SMOOT. I say my understanding of the mode of handling an apostle is different from that.

Mr. TAYLER. And then, that in August, 1897, after a long investigation before the high council of Salt Lake stake of Zion, Moses Thatcher submitted to the decision of the council and thus retained his standing in the church?

Senator SMOOT. That would be after the presidency had passed upon it, and he submitted there, and he would hold his standing in the church.

Mr. TAYLER. Do you not understand now, Senator, that long before his head as an apostle had dropped into the basket and he was done for as an apostle?

Senator SMOOT. Not by the apostles, but by the presidency of the church.

Mr. TAYLER. Then this is not at all correct that I have read to you as occurring on the 19th of November, 1896, that he was, at a meeting of the council of the apostles, dropped from the council of the twelve?

Senator SMOOT. That may be it, but I do not so understand it.

Mr. TAYLER. You do not so understand it?

Senator SMOOT. No: I understand that is done by the presidency of the church, and the twelve apostles are there, the same as they are in the meeting—

Mr. TAYLER. You agree that it occurred at that time?

Senator SMOOT. I could not say that; more than likely it did.

Mr. TAYLER. Do you dispute that it occurred at that time, whether by the twelve apostles or by the first presidency or by both?

Senator SMOOT. I think he was deposed.

Mr. TAYLER. At that time?

Senator SMOOT. That may be the time.

Mr. TAYLER. His trial before the high council was not until after that?

Senator SMOOT. I could not say as to that.

Mr. TAYLER. So that his trial had not anything to do with his deposition as an apostle?

Senator SMOOT. He could not be deposed as an apostle without some kind of a charge.

Mr. TAYLER. I know; but you told us that he must be tried for his apostleship before the high council of his stake. Is that right, Senator?

Senator SMOOT. I think that that is where it starts. That is as I understand it.

Mr. TAYLER. Then this record that I have read to you is not correct?

Senator SMOOT. Not as I understand it.

Mr. TAYLER. Not as you understand it?

Senator SMOOT. Not as I understand it.

Senator OVERMAN. Was there any reason why you should get leave of absence rather than resign?

Senator SMOOT. I did not think it necessary to resign, Senator.

Senator OVERMAN. Is there any reason?

Senator SMOOT. Nothing. I did not think there was any reason why I should.

Mr. WORTHINGTON. If you retain your place as an apostle, you will some day, in the ordinary course, become president of the church?

Senator SMOOT. I do not know.

Mr. WORTHINGTON. You stand in the line of promotion?

Senator OVERMAN. You stand in the line of succession?

Mr. WORTHINGTON. And the testimony here has been that they have always been regularly promoted up.

Senator OVERMAN. That is the reason why I asked the question.

Senator SMOOT. I do not see any reason why I should resign. It does not interfere with my being a good citizen of the United States in any way, shape, or manner, nor with performing my duties to the best of my ability.

Senator OVERMAN. I thought, perhaps, there was some reason why you wanted to hold on to the apostleship——

Senator SMOOT. No.

Senator OVERMAN. Rather than to resign.

The CHAIRMAN. Where do you stand in the line of succession to the presidency?

Senator SMOOT. Three apostles have been appointed since I was appointed.

The CHAIRMAN. Do you mean you are about the sixth or the fifth?

Senator SMOOT. That would be the twelfth.

Senator DUBOIS. You are the ninth.

Senator SMOOT. Oh, no, Senator. There is the presidency, and the two counselors take their place.

The CHAIRMAN. In order that the committee may understand the matter, I will ask you a question. Suppose, when you contemplated becoming a candidate for the Senate, the first presidency had refused their consent and you had run for the office in the face of that refusal, what action, if any, would the church have taken?

Senator SMOOT. I do not know that they would have taken any action.

The CHAIRMAN. What is your judgment about it, under the government of the church?

Senator SMOOT. My opinion is that I would have been out of harmony and would have broken the rule that had been established.

The CHAIRMAN. What would that have resulted in?

Senator SMOOT. Oh, I could not say.

The CHAIRMAN. What is your judgment about it—if you had persisted in running in defiance of the church?

Senator SMOOT. I would not like to express an opinion. There is no case like it in the record.

The CHAIRMAN. Do you think you would have been promoted in the church or deposed?

Senator SMOOT. I do not think so, unless there had been some charge made against me.

The CHAIRMAN. I say, would you have been promoted for that violation or would you have been deposed?

Senator SMOOT. I do not think either.

The CHAIRMAN. What is that?

Senator SMOOT. I do not think either one—promoted or deposed.

The CHAIRMAN. Then you think no attention would have been paid to it?

Senator SMOOT. There may have been. I could not say.

The CHAIRMAN. What is your judgment about it?

Senator SMOOT. In my judgment I would have had to explain in some way.

The CHAIRMAN. And if it was not explained satisfactorily, then what?

Senator SMOOT. Then perhaps they would have taken action against me.

The CHAIRMAN. What kind of action?

Senator SMOOT. I perhaps would have been out of harmony.

The CHAIRMAN. What would that result in?

Senator SMOOT. Oh, I could not say. What the judgment would be I can not say.

Senator OVERMAN. Can an apostle be out of harmony and still be an apostle?

Senator SMOOT. Moses Thatcher was for years and years.

The CHAIRMAN. I will not press the Senator, although I would be glad if you could make it clear to the committee, that is all.

Mr. TAYLER. Moses Thatcher was deposed. Has any other apostle been deposed in fifty years?

Senator SMOOT. I can not call to mind one now. I do not know of one within the fifty years.

Mr. TAYLER. Now, Senator—

Mr. VAN COTT. Let me suggest Carrington.

Senator SMOOT. Oh, yes; Mr. Carrington was deposed. I should like to have the record show that I forgot about that.

Mr. VAN COTT. What about Lyman?

Senator SMOOT. Yes; that is right.

Mr. WORTHINGTON. The present apostle's father?

Senator SMOOT. The present apostle's father.

Mr. TAYLER. When?

Senator SMOOT. In Utah.

Mr. TAYLER. For what?

Senator SMOOT. Apostasy.

Mr. TAYLER. Oh. When was that?

Senator SMOOT. The Lyman case?

Mr. TAYLER. Yes.

Senator SMOOT. In the seventies some time, I think.

Mr. TAYLER. Had he left the church?

Senator SMOOT. No; he had not left the church.

Mr. TAYLER. But he was—

Senator SMOOT. He was deposed for preaching some doctrines contrary to the faith and belief of the church, I think.

Mr. TAYLER. Do you think that that would be the custom of the church—to depose an apostle who was preaching against the faith and belief of the church?

Senator SMOOT. I suppose it would, if it was to such an extent that they thought that he was wrong. I could not say.

Mr. TAYLER. That he was not true to his beliefs?

Senator SMOOT. And I want to say there may have been some other reasons. I do not know. I did not even remember the two names, not having my mind upon it.

Mr. TAYLER. Now, Senator, you said that a report came to the ears of the apostles that one of them, or two of them—John W.

Taylor and M. F. Cowley—had taken plural wives since the manifesto?

Mr. VAN COTT. I beg pardon. He did not say that, did he?

Mr. TAYLER. That the report had come to them?

Mr. VAN COTT. I did not understand Mr. Smoot to say that as to Mr. Cowley.

Mr. TAYLER. I thought he did.

Senator SMOOT. Not as to Mr. Cowley.

Mr. TAYLER. Did you have any rumor or report respecting any except Taylor?

Senator SMOOT. From the evidence here in regard to Taylor.

Mr. TAYLER. And not as to Crowley?

Senator SMOOT. Not as to Crowley.

Mr. TAYLER. I did not intend to put in a name that had not been mentioned by you. When was it that you took up that subject?

Senator SMOOT. I could not say the day, but it was perhaps a month or over before the October conference; somewhere near a month.

Mr. TAYLER. And it was near the October conference, was it?

Senator SMOOT. Yes.

Mr. TAYLER. You then started an inquiry?

Senator SMOOT. I did not. I asked for an inquiry.

Mr. TAYLER. Who did start it?

Senator SMOOT. I think the president of the church started it.

Mr. TAYLER. Do you know that he started it?

Senator SMOOT. Yes; I know that he started it.

Mr. TAYLER. Where is Taylor?

Senator SMOOT. Oh, I do not know, but I think he is in Canada.

Mr. TAYLER. What do you mean Senator, when you say you do not know? Do you mean you have never asked?

Senator SMOOT. No. I have heard a report that he is in Canada and I have heard a report that he is in Mexico.

Mr. TAYLER. You are an apostle, and is that the kind of information you generally have about the whereabouts of the members of the quorum of twelve?

Senator SMOOT. That is the only report I ever got.

Mr. TAYLER. And with these charges you made no inquiry about it?

Senator SMOOT. I inquired and asked that that be done.

Mr. TAYLER. About where he was, I mean. Where did you ask about where he was?

Senator SMOOT. The first time I asked I was told they thought he was in Canada.

Mr. TAYLER. Where did you ask?

Senator SMOOT. I asked at that meeting.

Mr. TAYLER. The meeting of the apostles?

Senator SMOOT. The meeting of the apostles.

Mr. TAYLER. And the next time you asked, what did they say?

Senator SMOOT. That was the time the question was brought up.

Mr. TAYLER. I understood you to say that once you heard he was in Canada and that again you heard that he was in Mexico.

Senator SMOOT. From other parties.

Mr. TAYLER. From other parties?

Senator SMOOT. Yes.

Mr. TAYLER. You never inquired but once at an apostles' meeting?

Senator SMOOT. Yes; and I think they said there that he was in Canada.

Mr. TAYLER. Then after that you heard he was in Mexico?

Senator SMOOT. I heard it reported that he was in Mexico.

Mr. TAYLER. Did you attach any importance to that report?

Senator SMOOT. Nothing at all.

Mr. TAYLER. It was not worth considering in view of the official information you had?

Senator SMOOT. I do not think so. I think he is in Canada.

Mr. TAYLER. There is no doubt about it that the proper authority in Salt Lake knows right where John W. Taylor is?

Senator SMOOT. I do not know as to that.

Mr. TAYLER. They may not know the house or town he is in to-night, but they know as much about him as they know about the whereabouts of any apostle who is not in their visible presence?

Senator SMOOT. I think John W. Taylor could leave without stating where he was going. But my belief is he is in Canada.

Mr. TAYLER. Is there anybody in Salt Lake City who knows where he is?

Senator SMOOT. Well, I do not know as to that.

Mr. TAYLER. That is to say, do the authorities there remain in ignorance of the whereabouts of the apostles? Can it be that they are in doubt as to whether an apostle is in Canada, or South Africa, or Russia?

Senator SMOOT. I think they ought to know where they are.

Mr. TAYLER. You are an apostle. I ask you because you are an apostle, not because you are a Senator, or because you are an ordinary individual.

Senator SMOOT. I will state this, that as far as my knowledge is concerned, I have never written a letter to him. I do not know where he is, any further than what was said there, that they thought he was in Canada.

Mr. TAYLER. Did you feel very deeply this charge that he was said to have taken two plural wives?

Senator SMOOT. I do not approve of it by any manner of means.

Mr. TAYLER. Well, now, is that your answer to my question?

Senator SMOOT. Well, I could not say how deeply.

Mr. TAYLER. I did not ask you how deeply you felt, but if you felt it deeply.

Senator SMOOT. I can say "yes."

Mr. TAYLER. You say that, however, with considerable hesitation—

Senator SMOOT. Not at all.

Mr. TAYLER. Both as to the time and the manner.

Senator SMOOT. I do not think so, Mr. Tayler.

The CHAIRMAN. Is it usual for the apostles to go where they please without direction of the church, and leave when they please?

Senator SMOOT. I do not think it is usual, Mr. Chairman.

The CHAIRMAN. Do you not know, Senator, that that is not the practice, and that it is not permissible?

Senator SMOOT. I think the proper thing for an apostle to do would be, if he has not been excused, to let them know where he is.

The CHAIRMAN. Do you know whether this apostle is in Canada, having been excused?

Senator SMOOT. I do not know about that.

The CHAIRMAN. Or is he there on a mission?

Senator SMOOT. I do not know that. I know he has a great many business interests there.

The CHAIRMAN. You do not know whether he is there on a mission or by permission of the church?

Senator SMOOT. I do not think he has been called on a mission.

The CHAIRMAN. How long has he been there?

Senator SMOOT. That I do not know.

The CHAIRMAN. Has he been there ten years or ten months?

Senator SMOOT. He has been in Canada—that is, off and on—for a long time; a good many years.

The CHAIRMAN. What is the date of his last absence?

Senator SMOOT. I should judge it was a year, or since this inquiry started.

The CHAIRMAN. He has been there ever since this investigation started?

Senator SMOOT. I think so.

The CHAIRMAN. You do not know whether he is on a mission, but you think not?

Senator SMOOT. I do not think he is.

The CHAIRMAN. Do the apostles make report to the church as to their work and the harvest they are gathering in the fields?

Senator SMOOT. No; I do not.

The CHAIRMAN. That is not the practice of the apostles?

Senator SMOOT. It is not the requirement.

Senator OVERMAN. Do you know whether he has leave of absence or not?

Senator SMOOT. I do not know that.

Senator OVERMAN. If he was attending to his own business, would he not have to have leave of absence?

Senator SMOOT. I think so, unless he did it of his own free will and accord. I think he ought to have one.

Senator OVERMAN. Without leave of absence, can an apostle look after other matters than those of the church?

Senator SMOOT. Oh, my, yes; I can go into any business I want to that would not take me away from Salt Lake City—or Utah. Well, I do not mean Salt Lake City—outside of Utah—

Senator OVERMAN. He is in Canada.

Senator SMOOT. I say, Senator. I do not know about him.

Senator DUBOIS. You can go into any business except politics; is that it?

Senator SMOOT. No; I say there are businesses that take you away for months and months at a time. You would have to get consent to go into business in that way.

Mr. TAYLER. Do you know what effort has been made to procure his statement?

Senator SMOOT. The details of it I do not know.

Mr. TAYLER. Have you made no inquiry about it?

Senator SMOOT. I have asked if a movement had been made, and was told there had been.

Mr. TAYLER. What movement?

Senator SMOOT. That is, an investigation of John W. Taylor.

Mr. TAYLER. And did you inquire how or where it was being conducted?

Senator SMOOT. I knew that President F. M. Lyman was given that mission.

Mr. TAYLER. Do you know whether any effort was made to have John W. Taylor come and report for himself?

Senator SMOOT. I think there has been. I know there was, when President Smith left here and went home, a telegram sent; and how I know this telegram was sent is that it was sent back to Chicago to a Mr. Gibbs, and from Mr. Gibbs it went back to Mr. Gibbs of Salt Lake City, and then it was sent here to me. It was not delivered in Canada.

Mr. WORTHINGTON. Mr. Gibbs is the secretary of the presidency?

Senator SMOOT. And not only that, but I know it because from letters written from John W. Taylor, and I read them to the chairman of this committee—from him and Cowley. I know that the president of the church did that much.

Mr. TAYLER. Where was Taylor's letter from?

Senator SMOOT. I think it was from Canada, was it not, Mr. Chairman?

The CHAIRMAN. I do not remember.

Mr. WORTHINGTON. It was from some place in Canada. That is right.

Mr. TAYLER. Where was Cowley's letter from?

Senator SMOOT. From some place in Iowa, was it not, Mr. Chairman?

The CHAIRMAN. I have no recollection of the place.

Senator SMOOT. I think it was. I read it to you, and I think he was in Iowa somewhere.

Mr. TAYLER. In Iowa, did you say?

Senator SMOOT. Yes, in Iowa, when he wrote that letter.

Mr. TAYLER. Did he say he would not come?

Senator SMOOT. I would rather have the letters themselves produced.

Mr. TAYLER. I am only trying to get the tone of them. Of course I would rather have the letters.

Senator SMOOT. I do not want to put a construction upon them.

Mr. TAYLER. No.

Senator SMOOT. But in substance they were, that they did not think this was a question of religion at all, and was a mere matter of investigating something that they had no concern in, and that they did not feel that it was proper to come. Now, I do not know that that is the substance of them, but I know of those letters, and I read them to the chairman, and perhaps I did wrong in doing so. They were sent to me, and I did not want anything concealed, and I read them to the chairman of this committee.

Mr. TAYLER. That is the substance of what President Smith said in his letter, is it not?

Senator SMOOT. Perhaps it is.

Mr. TAYLER. Was not President Smith's letter based upon the letters to which you refer?

Senator SMOOT. I forget about Mr. Smith's letter.

Mr. WORTHINGTON. We ought to have those letters, instead of having the witness's vague recollection of them.

The CHAIRMAN. You do not know what was in President Smith's letter?

Senator SMOOT. No; I know there is a letter in the record.

Mr. TAYLER. It is printed.

Senator SMOOT. I believe it was written to you, Mr. Chairman, and I believe you had it printed in the record. That is as I understand it.

The CHAIRMAN. You do not know the contents of the letter that he wrote to these apostles?

Senator SMOOT. No; but I would judge from the answer that he received that he had asked them to come.

The CHAIRMAN. I did not know but that you had seen that letter.

Senator SMOOT. No, sir; I have not. In fact, I think it was a telegram, and not only a telegram but a letter. I believe President Smith telegraphed from Washington City when he was here.

Mr. TAYLER. Telegraphed to whom?

Senator SMOOT. I think he telegraphed to Salt Lake City, to Secretary George F. Gibbs—now, this is as I remember it, but I do not know that it is true—to locate, if possible, Cowley and Taylor.

The CHAIRMAN. Then the president did not know at that time where two of his apostles were?

Senator SMOOT. I do not think he did. I think his testimony here shows that Mathias F. Cowley was taking a trip through the missions.

The CHAIRMAN. Is there anything else, Mr. Tayler?

Mr. WORTHINGTON. Mr. Tayler, will your cross-examination be much longer?

Mr. TAYLER. I will not be able to get through to-day.

Mr. WORTHINGTON. Mr. Chairman, I suggest an adjournment at this hour. The Senator has been on the stand a long time, and you know he is not in good condition.

Senator SMOOT. I have had a very bad case of indigestion ever since Christmas. However, I am perfectly willing to go until 5 o'clock if you insist upon it.

The CHAIRMAN. The Chair will not insist upon it if you are not well.

Senator SMOOT. I can stand it all right.

The CHAIRMAN. It is not a question of standing it.

Senator OVERMAN. I think we had better adjourn. The Senator has been on the stand a long time.

The CHAIRMAN. We do not want you to remain on the stand any longer if it inconveniences you.

Senator SMOOT. Whatever you decide will be satisfactory to me.

Mr. WORTHINGTON. What would you prefer if it was left to you—to take an adjournment now or to run along?

The CHAIRMAN. The committee generally sits until 5 o'clock. Perhaps we might run along for five or ten minutes more.

Mr. WORTHINGTON. Senator, what is your preference about the matter?

Senator SMOOT. Of course I am a little tired, but whatever the chairman says will be satisfactory to me.

Mr. TAYLER. I think we might as well adjourn, Mr. Chairman.

The CHAIRMAN. The committee will stand adjourned until 10 o'clock to-morrow morning.

Thereupon (at 4 o'clock and 30 minutes p. m.) the committee adjourned until to-morrow, Saturday, January 21, 1905. at 10 o'clock a. m.

WASHINGTON, D. C.. *January 21, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Foraker, Beveridge, Dillingham, Knox, Pettus, Dubois, Bailey, and Overman; also Robert W. Tayler, counsel for the protestants. and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. Mr. Tayler, will you proceed?

TESTIMONY OF REED SMOOT—Continued.

REED SMOOT, having been previously duly sworn, was examined, and testified as follows:

Senator SMOOT. Mr. Chairman, before proceeding I should like to make a correction in my testimony of yesterday in relation to the mode of procedure of the apostles' quorum in trying a member of the apostles.

I stated that it was, as I understood it, in connection with the presidency of the church, but after looking it up more carefully I found that the quorum of the apostles has a right to try a member of that quorum without calling in the presidency or having them present, and that they are the only quorum in the church that have that right.

Mr. WORTHINGTON. Senator, you do not mean that no other quorum can depose an apostle, but that no other quorum can depose a member of that quorum, whatever it may be?

Senator SMOOT. That is it.

Again, to a question asked me by Mr. Tayler, as follows:

"You had no talk with him"—

Referring to President Snow—

"at all about the Senatorship in 1900?"

"Senator SMOOT. About the Senatorship? Oh, I had a talk with him just in the office one day."

I wish to correct that, Mr. Chairman, by stating that I had talked with President Snow on more than one occasion.

Mr. TAYLER. On that subject?

Senator SMOOT. On that subject.

The CHAIRMAN. If there is any other portion of your testimony that you desire to correct, you have that right.

Senator SMOOT. There is another point.

I said my mother died in 1896. She died in 1894. I thought she died the year after my father died, but it was the year before my father died.

The CHAIRMAN. If it should occur to you that there are other corrections you desire to make, you understand you have the right to do so.

Senator SMOOT. Yes, sir. Thank you.

Mr. TAYLER. Speaking about the action of the quorum of twelve, the quorum of twelve must always be unanimous?

Senator SMOOT. No; I do not understand so, Mr. Tayler.

Mr. TAYLER. Is it not that they must all agree?

Senator SMOOT. You mean for the deposing of a member?

Mr. TAYLER. Oh, no; but with respect to any purpose they design to carry out. They all unite as fully as a jury would. Is not that the law of the church?

Senator SMOOT. Any member of the quorum can vote just as he pleases.

Mr. TAYLER. Of course he can vote as he pleases; but then, after that, he must unite with the rest of them to carry it out?

Senator SMOOT. If a majority votes for any policy, he is supposed to at least not oppose it if he was not in harmony with it.

Mr. TAYLER. Must he not join with them?

Senator SMOOT. No.

Mr. TAYLER. It is not that the law of the church, of the doctrine and covenants, and has it not been declared by the heads of your church?

Senator SMOOT. I do not think so.

Mr. TAYLER. I may later on call your attention to places where that is referred to.

When was it that your attention was first called to the claim or charge or rumor that President Benjamin Cluff, of Brigham Young University, had married another and a plural wife since the manifesto?

Senator SMOOT. In 1902, I think, was the first time I heard it, in the Provo Commercial and Savings Bank, from Mr. Jesse Knight.

Mr. TAYLER. You were then a trustee of the institution?

Senator SMOOT. I was.

Mr. TAYLER. And you were a member of what committee?

Senator SMOOT. I was a member of the executive committee.

Mr. TAYLER. How many members were there of the executive committee?

Senator SMOOT. I think there were five.

Mr. TAYLER. And you were also at that time an apostle?

Senator SMOOT. Yes; I was.

Mr. TAYLER. What steps did you take to find out if that was true?

Senator SMOOT. Mr. Knight told me that he was going to inquire about it, and that he did inquire of Mr. Cluff about it, and I do not know that I took any particular steps, Mr. Tayler, other than what was related here yesterday at the meeting.

Mr. TAYLER. You said that Mr. Cluff gave a reply to Mr. Knight that you interpreted as being evasive?

Senator SMOOT. I so considered it.

Mr. TAYLER. Did you learn who was the reputed new wife?

Senator SMOOT. I heard from Mr. Knight that it was the daughter of George Reynolds.

Mr. TAYLER. Did you inquire of George Reynolds?

Senator SMOOT. No; I did not.

Mr. TAYLER. Of course you know George Reynolds?

Senator SMOOT. I meet him once in a while, but not very often. I know him.

Mr. TAYLER. His office is in the temple?

Senator SMOOT. No, sir.

Mr. TAYLER. Where is it?

Senator SMOOT. It is in the building adjoining the office of the president of the church, one block east of the Temple Block.

Mr. WORTHINGTON. You and the witness are both referring to the temple at Salt Lake now?

Mr. TAYLER. Surely.

Senator SMOOT. Yes.

Mr. TAYLER. I am referring, of course, to the place where the apostles and the first presidency are in the habit of meeting. So that, except as you have stated, the subject was not pursued any further?

Senator SMOOT. As far as I know.

Mr. TAYLER. I mean so far as you know.

The CHAIRMAN. Senator, may I ask a question? Did Knight make a report to you as to what he found to be the facts?

Senator SMOOT. He told me, Mr. Chairman, that he had spoken to Mr. Cluff about it, and that Mr. Cluff gave what he considered an evasive answer, and that he thought there must be some truth in it.

The CHAIRMAN. There must be some truth in it?

Senator SMOOT. Yes, sir.

The CHAIRMAN. Did you follow it up after that to ascertain?

Senator SMOOT. I reported here that that was the beginning, I think, of the removal of Mr. Cluff, or the change of Mr. Cluff as president of the faculty of Brigham Young University.

The CHAIRMAN. Did you make further inquiry?

Senator SMOOT. I said no; I did not.

Mr. TAYLER. He remained president for a year or two after that?

Senator SMOOT. A year, I think; a little over.

Mr. TAYLER. Then he was succeeded by Brimhall?

Senator SMOOT. George H. Brimhall.

Mr. TAYLER. He also was a polygamist, living with his plural wife?

Senator SMOOT. Yes. He had two wives, as I stated yesterday.

Mr. TAYLER. He has now, has he not?

Senator SMOOT. Yes. I do not think she is dead. I think she is still in the asylum.

Mr. WORTHINGTON. The first wife, you mean?

Senator SMOOT. Yes.

Mr. TAYLER. You were not present at the meeting at which he was elected?

Senator SMOOT. No; I was not.

Mr. TAYLER. But if you had been there, I understood you to say, you would have voted for him?

Senator SMOOT. I think I would.

Mr. TAYLER. You considered him the best man there, not, of course, because he was a polygamist, but for other reasons, for the place?

Senator SMOOT. I think he was the best man, qualified for the place.

Mr. TAYLER. Do you consider the head of Brigham Young University what you would call a church place?

Senator SMOOT. I rather think it would be.

Mr. TAYLER. And the rule which you laid down as controlling your conduct in such a case, for instance, as Apostle Penrose's election, would apply to the case of a man who was to be elected president of a church university?

Senator SMOOT. I think the same rule might apply. Of course the conditions may be different.

Mr. TAYLER. I mean, other things being the same; that is to say, you would not vote for George Brimhall for a civil political position, but you would vote for him for president of the Brigham Young University?

Senator SMOOT. If it was a Federal office. I would not vote for Mr. Brimhall.

Mr. TAYLER. If it was a Federal office?

Senator SMOOT. Yes. But if it were a local office there that he was running for, perhaps I would.

Mr. TAYLER. What distinction would you make between a Federal and a State office?

Senator SMOOT. I think that the conditions there, especially in some communities, are such that they would not object to him so much as they would if he were appointed or elected to——

Mr. TAYLER. It is a question——

Mr. WORTHINGTON. Let him finish his sentence.

Mr. TAYLER. Certainly.

Senator SMOOT. To a Federal position.

Mr. TAYLER. So it is a question of local opinion that would control you in that matter?

Senator SMOOT. Partially.

Mr. TAYLER. And it is not a question of principle?

Senator SMOOT. Well, not altogether. I would not like to say that I would vote against a man like George Brimhall. There are polygamists I would not vote for under any consideration.

Mr. TAYLER. You will understand that I am not undertaking to get you to distinguish between the virtues of two different polygamists?

Senator SMOOT. Yes.

Mr. TAYLER. But I am only undertaking to apply the rule which you laid down as covering your conduct and opinion in the case of Apostle Penrose.

Senator SMOOT. Generally speaking——

Mr. TAYLER. Then you state that you would be more likely to apply the rule of noninterference on account of a man's polygamous living in a case where he was to be chosen for a State office or an office in the State than if it was a Federal position that was to be filled?

Senator SMOOT. I think I could say that with truth, Mr. Tayler.

Mr. TAYLER. Now, why?

Senator SMOOT. You asked me in relation to George H. Brimhall. I hardly think——

Mr. TAYLER. I have rather left Brimhall for the moment. I am now speaking about——

Senator SMOOT. I told you before that there are a great many polygamists I would not vote for for such an office, but I would vote for a man like George H. Brimhall for a State office.

Mr. TAYLER. For a State office?

Senator SMOOT. For a State office.

Mr. TAYLER. Would you for a Federal office?

Senator SMOOT. No; I would not.

Mr. TAYLER. The law which George H. Brimhall is violating is not a Federal law at all, but a State law.

Senator SMOOT. I am aware of it.

Mr. TAYLER. So that it is not because of his violation of law that

you would withhold from or give support to him? That has nothing to do with it?

Senator SMOOT. I do not think that George Brimhall is holding out a wife there in a flaunting manner. I do not think very many people know that he has more than one.

Mr. TAYLER. Is he not violating the law?

Senator SMOOT. Technically, yes.

Mr. TAYLER. Technically? Is he having children by his plural wife?

Senator SMOOT. Yes; he is.

Mr. TAYLER. And that is a technical violation of the law, according to your view of it?

Senator SMOOT. Under the circumstances.

Mr. TAYLER. Under the circumstances?

Senator SMOOT. Yes.

The CHAIRMAN. What do you mean by technical violation?

Senator SMOOT. I mean that George H. Brimhall has a wife, and she has been in the insane asylum for twenty some odd years, and I mean that before this investigation I suppose there was hardly a student in the institution who knew that he was a polygamist. I know that people live there, I suppose in the town itself, who did not know it. He has not taken any more wives since the manifesto, and he lived with his second wife before, and I do not think that when it comes right down to it he really intended to break any law of this country.

The CHAIRMAN. You say it is a technical violation of the law?

Senator SMOOT. I think, Mr. Chairman, I could even say it is a violation of the spirit of the law.

The CHAIRMAN. Is it not only a violation of the spirit of the law, but of the letter of the law?

Senator SMOOT. And the letter of the law.

The CHAIRMAN. To answer the question directly, it is violating the letter of the law.

Senator SMOOT. It is, with those extenuating circumstances.

The CHAIRMAN. Do you think it is an extenuating circumstance, in a case where a man marries another woman and has children by her, that his legal wife is in the asylum?

Senator SMOOT. No; I hardly think that in the first place.

The CHAIRMAN. Have you any doubt about it? Would you think it an extenuating circumstance to take advantage of the insanity of your lawful wife and marry another woman and have intercourse with her and raise children by her without securing a divorce from the other one?

Senator SMOOT. At the time when he married the other wife there was no church law against it, and I suppose he took her thinking it was all right.

The CHAIRMAN. Do you think that is an extenuating circumstance—because the legal wife is insane?

Senator SMOOT. Mr. Senator, I do not know that I could put it as broad as that. Perhaps I could, though. It seems to me like it would be.

The CHAIRMAN. Do you think it would be an extenuating circumstance?

Senator OVERMAN. At the time he took his second wife, was the first wife in the asylum?

Senator SMOOT. Yes.

Mr. WORTHINGTON. She had been there for two years.

Mr. VAN COTT. And a man could not get a divorce in Utah at that time on account of the insanity of his wife?

Senator SMOOT. As I understood the law, he could not.

Mr. TAYLER. How do you know his first wife was in an asylum when he married his second wife?

Senator SMOOT. I was a member of the asylum board, not at that time, but after——

Mr. WORTHINGTON. He testified——

Mr. TAYLER. I know. Let me take this witness now.

Senator KNOX. I should like to ask a question. When you say it would be an extenuating circumstance, do you mean in all cases it would be an extenuating circumstance, or only in the case of a polygamist who had married before the manifesto?

Senator SMOOT. Oh, before the manifesto.

Senator KNOX. You confine your answer, then, to polygamists who had married before the manifesto?

Senator SMOOT. Before the manifesto.

Senator KNOX. I did not quite understand, as your answer was so general.

Senator SMOOT. For a man to marry another wife under those circumstances to-day I would consider was polygamy, just the same as——

Senator KNOX. That is all. I wanted to clear that up.

Mr. TAYLER. Now, Senator, do you not know that in the Latter Day Saints——

Senator SMOOT. I should like to answer the question that you asked me. I did not finish.

Mr. WORTHINGTON. The question as to how you know that the first wife was in the insane asylum when he married the second one?

Senator SMOOT. Yes. I heard it stated when I was at the asylum that she had been there, and I also remember of general talk that George Brimhall's wife was there; and not only that, but I have seen her many times in the asylum, and hers is one of the most pitiable cases of insanity that I ever knew in my life, and in conversation they told me she had been insane for many years.

Mr. TAYLER. Did you ever hear that she bore him any children?

Senator SMOOT. I think she bore him two.

Mr. TAYLER. You know this Latter Day Saints Biographical Encyclopædia?

Senator SMOOT. Yes, sir; I know of it.

Mr. TAYLER. Prepared by Mr. Jensen.

Senator SMOOT. I know of it.

Mr. TAYLER. This is as correct as books of this kind ordinarily are, is it not?

Senator SMOOT. I have not examined it. I could not say.

Mr. TAYLER. I mean the book itself, generally?

Senator SMOOT. I would not want to be bound by the book.

Mr. TAYLER. Of course not. Does it have your biography in it?

Mr. WORTHINGTON. It says he became an apostle in 1898, and in that respect is just two years out of the way.

Senator SMOOT. I think it does. If that is the one, it does not give the name of my mother right, nor does it give the date of my appointment as an apostle right.

Mr. TAYLER. Otherwise is it right?

Senator SMOOT. I think so, on the whole.

Mr. TAYLER. Now, I notice in this book that the article on George H. Brimhall says:

"When 22 years of age he was united in marriage for time and eternity to Alsina E. Wilkens, who became the mother of six children——"

Naming them.

Senator SMOOT. They may have died. I do not know.

Mr. TAYLER. I only asked if she had them?

Senator SMOOT. I do not know.

Mr. TAYLER. Then it goes on to say:

"At 31 he received in marriage for time and eternity Flora Robinson."

You are still of the opinion that the first wife went to the asylum before he married the second wife?

Senator SMOOT. I so understood it.

Mr. TAYLER. That is, at the age of 31, if that be the correct age when he married his second wife, he was the father of six children by his first wife?

Senator SMOOT. Of course I do not know. All I know is this: I know two girls of George H. Brimhall's first wife, and they are the only children I know by her.

Mr. TAYLER. Where do they live?

Senator SMOOT. They live in Provo. They went to school.

Mr. TAYLER. Did they live in his family?

Senator SMOOT. I do not know where they lived.

Mr. WORTHINGTON. That book has been discredited by its own author, and the evidence here is that the church does not recognize it as correct. Mr. Jensen said he picked up his information wherever he could get it, and in a few cases he got it from the persons whose biography he was giving.

Mr. TAYLER. You will admit that it seems to be advertised in this book that he had two wives?

Mr. WORTHINGTON. I have not looked at the book, and so far as I am concerned, if I was on the committee, I would not care what was stated in that book, unless there was evidence as to what the fact was, because it is simply hearsay of the worst kind.

Mr. TAYLER. Mr. Worthington seems to be incredulous. Are you satisfied that the world is able to know that George Brimhall has two wives?

Senator SMOOT. I think George Brimhall has two wives.

Mr. WORTHINGTON. From that book alone?

Mr. TAYLER. Yes; from that book alone. Coupled with the fact of George Brimhall's testimony, is it not fair to assume that the book is right in that respect?

Senator SMOOT. I believe his testimony.

Mr. WORTHINGTON. Do you mean that, coupled with his testimony, the book is right generally?

Senator SMOOT. I do not mean the whole book. I mean that he has two wives.

Senator PETTUS. This talk between counsel——

Mr. WORTHINGTON. The words were put into the mouth of the witness that with the testimony of Brimhall here and that book, the statement in the book would be taken as true. Evidently the witness did not understand it, because Brimhall contradicted the statement in the book. He says his wife went to the insane asylum in 1883 and he married his second wife in 1885. The statement in the book is inconsistent with that testimony.

The CHAIRMAN. The witness has already answered. Is there anything else, Mr. Tayler?

Mr. TAYLER. Senator, while you were an apostle, Joseph F Smith was made president?

Senator SMOOT. He was.

Mr. TAYLER. You voted for him?

Senator SMOOT. I did.

Mr. TAYLER. Was he the unanimous choice of the apostles?

Senator SMOOT. I think he was.

Mr. TAYLER. They presented him to the conference of the church?

Senator SMOOT. They did.

Mr. TAYLER. How long did he act as president of the church before his appointment was sustained by the conference?

Senator SMOOT. Not very long.

Mr. TAYLER. Whatever the interval was, between that time and the regular meeting of the people semiannually?

Senator SMOOT. I think it was about one month only, as I remember it.

Senator OVERMAN. Did you vote to sustain him at the October conference, after he had given his testimony here?

Senator SMOOT. I did.

Mr. TAYLER. And you have voted to sustain him ever since then?

Senator SMOOT. Whenever I have been there, on the same ground that I stated yesterday.

Mr. TAYLER. That there was no reason, according to your view, why a man should not be elevated to a church office, who was married before the manifesto to plural wives, and continued in that habit or relation?

Senator SMOOT. I forget whether I said continued in their relation, but I suppose it would be the same.

Mr. TAYLER. The same thing?

Senator SMOOT. Yes.

Mr. TAYLER. The laws governing the church organization and the religious principles for which the church stands have remained unchanged since the death of Joseph Smith, have they not, except in respect to the suspension of the polygamy revelation?

Senator SMOOT. I think the great bulk of them have.

Mr. TAYLER. Now, what has not?

Senator SMOOT. I can not call to mind any right now, other than the question of polygamy.

Mr. TAYLER. How could any rule or principle declared, for instance, in the Book of Doctrine and Covenants be revoked or rescinded or suspended otherwise than by acts of the church or by a new revelation?

Senator SMOOT. It could only be suspended by the vote of the members of the church at a conference.

Mr. TAYLER. Could it be suspended merely by a vote of them?

Senator SMOOT. That is, you mean if it was presented to the people and they voted on it?

Mr. TAYLER. Yes.

Senator SMOOT. I think if the people voted against an article of faith at a general conference, that would revoke it, or suspend it.

Senator OVERMAN. Senator Smoot, do you believe that the Church of Jesus Christ of Latter-Day Saints has received and does receive revelations from God?

Senator SMOOT. I believe they can receive revelations from God. I think that if God gave revelations in the early days, God certainly can give revelations to-day.

Senator OVERMAN. And you believe he did in the early days?

Senator SMOOT. I do.

Senator OVERMAN. And that he will or can do it now?

Senator SMOOT. He can do it now.

Senator OVERMAN. To whom would those revelations come?

Senator SMOOT. I think any good man could receive a revelation, but nobody but the president of the church could receive a revelation that would bind the church, nor would the church be bound by any revelation until it had been presented to the church and accepted and adopted by the conference.

Senator OVERMAN. You believe, then, that if God should make a revelation to Joseph Smith, and that was submitted to the church in conference and accepted by the church, it would be the law of the church?

Senator SMOOT. It would be a rule and law of the church.

Senator OVERMAN. You think the laws of God are superior to the laws of man?

Senator SMOOT. I think the laws of God, upon the conscience of man, are superior. I do, Mr. Senator.

Senator OVERMAN. You think the laws of God, as revealed to Joseph Smith and accepted by the church, would be binding upon the members of the church superior to the laws of the land?

Senator SMOOT. I think it would be binding upon Joseph Smith.

Senator OVERMAN. Well?

Senator SMOOT. And I think if a revelation were given to me, and I knew it was from God, that that law of God would be more binding upon me, possibly, than a law of the land, and I would have to do what God told me, if I was a Christian.

Senator OVERMAN. I speak of a law——

Senator SMOOT. But I want to say this, Mr. Senator. I would want to know, and to know positively, that it was a revelation from God.

Senator OVERMAN. I was not speaking——

Senator SMOOT. And then I would further state this, that if it conflicted with the law of my country in which I lived, I would go to some other country where it would not conflict.

Senator OVERMAN. I was not speaking of a revelation to you. I was speaking of a revelation that comes to the president of the church, is submitted by the president to the conference, and accepted

by the conference. Is that binding upon the members of the church generally, and is it superior to the law of the land?

Senator SMOOT. As a rule of the church, but not binding upon any member of the church who does not want to follow it. Free agency in our church is a heritage God has given, and not only in our church, but given to everybody. That God can not take that free agency away from me. If He could, He could not judge me when I died and went to the bar of justice, because——

Senator OVERMAN. Then if there was a commandment given by God to the church and accepted by the church, any member of the church has a right to violate that command?

Senator SMOOT. They have.

Senator BEVERIDGE. I direct your attention, Senator, to the last portion of Senator Overman's question prior to the last one, which was whether or not any revelation that might be given through any of the processes you mention could, under any circumstances, be superior to the law of the land? That is the question I should like to have you direct your answer to.

Senator SMOOT. I should like——

Senator BEVERIDGE. I suggest that you have the last part of Senator Overman's question read.

Senator SMOOT. I will ask the reporter to read it.

The reporter read as follows:

“Senator OVERMAN. I was not speaking of a revelation to you. I was speaking of a revelation that comes to the president of the church, is submitted by the president to the conference, and accepted by the conference. Is that binding upon the members of the church generally, and is it superior to the law of the land?”

Senator BEVERIDGE. I should be glad to have you direct your answer to the last part of the question.

Senator SMOOT. I do not believe it is superior to the law of the land.

Senator OVERMAN. Then if you yourself got a revelation from heaven, I understand you would regard that as superior to the law of the land, and would have to submit to it or leave the country?

Senator SMOOT. That would be a revelation from God to me direct, and if I believed that it was from God I would consider it compulsory on me to obey it; and, as I stated, Senator, if I lived in this country and that command of God was against the laws of my country I would move to some other country where I could obey that law.

Senator OVERMAN. Do you believe those revelations are ever given by God to individuals?

Senator SMOOT. Well, I have heard men so testify, but I could not say positively.

Senator OVERMAN. What is your belief about it, Senator?

Senator SMOOT. I believe that God could do such a thing.

Senator OVERMAN. Do you believe He has done it and that He will do it again in time?

Senator SMOOT. I rather think that God did it in former days, and I feel that He can do it now.

Senator OVERMAN. That is all.

Senator DUBOIS. If the president of the church received a revelation from God and submitted it to the conference, and they sustained

it, and you, for instance, did not see fit to obey it, how would that affect you as regards your relation to the church?

Senator SMOOT. I hardly think it would affect me. I remember now an instance in our church of a revelation being received for the establishment of the United Order. I know that Brigham Young went from one end of the State to the other and preached the new order, and instructed the people to organize and follow out that revelation. He went from St. George to the north, and I know that it was never adhered to or followed out by the people, and is virtually a dead letter to-day.

Senator DUBOIS. Do you mean to have me infer from that that if the Lord gave a revelation to the president, which was submitted to the church and they sustained it, a member of the Mormon Church could disregard that and maintain his fellowship and standing in the church?

Senator SMOOT. Oh, yes; I understand so. Take the law of tithing. It is a law of the church, and I know there are many, many people who belong to the church to-day who do not obey it, and they are in fellowship, Senator. We try to teach the principles as revealed, and we try to have men live lives of honor and uprightness and honesty, and that is our duty and that is required of us.

Senator DUBOIS. Let us be clear about this. Under those circumstances you could refuse to obey such revelation which had been sustained by the church?

Senator SMOOT. I could.

Senator DUBOIS. And as an apostle you could go out among your people and take that position, and the people could refuse to obey it also and retain their standing?

Senator SMOOT. I would not want to go as far as I infer your question would lead—that is, I would not want to say that a man could go from one end of the church to the other and make a special point of preaching against a certain doctrine of the church and be in full fellowship. I would not want you to understand, Senator, that I mean that, because I think that would be not only nonbelief in it, but it would be open rebellion, and through that you would be out of harmony.

Senator OVERMAN. I think you said yesterday that you went on a mission to London or to England. When was that?

Senator SMOOT. I left this country on December 3, 1890.

Senator OVERMAN. Were you an apostle then?

Senator SMOOT. No; I was not.

Senator OVERMAN. You were sent on a mission?

Senator SMOOT. I was.

Senator OVERMAN. For what purpose—to preach the gospel of the Mormon Church?

Senator SMOOT. Just the same as other missionaries are sent.

Senator OVERMAN. Did you preach in England?

Senator SMOOT. I preached some. I worked most of the time in the Liverpool office.

Senator OVERMAN. Did you preach polygamy over there?

Senator SMOOT. Oh, no.

Senator BEVERIDGE. Are you through, Senator?

Senator OVERMAN. Yes.

Senator BEVERIDGE. Coming back to the question propounded a moment ago——

Senator FORAKER. Excuse me for a moment?

Senator BEVERIDGE. Certainly.

Senator FORAKER. Did you ever preach polygamy anywhere, Senator?

Senator SMOOT. I never did in my life.

Senator BEVERIDGE. Still addressing ourselves to the question——

The CHAIRMAN. Pardon me for a moment.

Senator BEVERIDGE. Certainly.

The CHAIRMAN. When you were abroad on any mission, while not preaching the doctrine of polygamy, suppose the doctrine had been assailed. What would you have done?

Senator SMOOT. I never had it assailed, Mr. Chairman, because most of my preaching was done on a Sabbath day, and I labored in the Liverpool office, and from the office I went to some parts of England, and just simply spoke for that day, and returned the next morning.

The CHAIRMAN. In your intercourse among the people, if the doctrine was assailed, would you agree with those who assailed it, or would you defend it?

Senator SMOOT. I would just simply refer them to the Bible, and say if the Bible does not support it, then it can not be supported.

The CHAIRMAN. The text-book you had with you was the book—the Doctrine and Covenants?

Senator SMOOT. That is hardly a text-book used by the missionaries. They have that here.

The CHAIRMAN. You had that with you, I suppose?

Senator SMOOT. It was there at the office.

The CHAIRMAN. That teaches polygamy?

Senator SMOOT. It teaches that polygamy is permissive.

The CHAIRMAN. Excuse me, Senator Beveridge.

Senator BEVERIDGE. Certainly. I merely want to continue a question which was put a moment ago, putting it in its simplest possible form. As between the law of the land and any revelation, which is binding upon the members of your church?

Senator SMOOT. What would I do?

Senator BEVERIDGE. No, sir. I did not ask what you would do. I ask you, as an officer of the church, to answer my question. As between a revelation and the law of the land, which is binding upon the members of the church?

Senator SMOOT. The law of the land in which we live.

Senator BEVERIDGE. Do I understand you to say that there is no law, rule, or ordinance of your church by which a revelation from above, even when confirmed by your people, is superior to the law of the land?

Senator SMOOT. I do not think it could be, Senator.

Senator BEVERIDGE. My mind was directed to that very point. It is rather important.

Senator SMOOT. We have a revelation in the Doctrine and Covenants that it is mandatory upon all members of our church to honor and obey the law of the land.

Senator OVERMAN. Right there——

Senator BEVERIDGE. Pardon me. Suppose a revelation is received,

as you described a moment ago it might be, and suppose, in addition to its having been received in that way, it is confirmed, or whatever term you use, by the people, and then that revelation, thus confirmed by the people, is in conflict with the law of the land; which is binding?

Senator SMOOT. The law of the land.

Senator BEVERIDGE. Then the revelation, even though received in that way, and even though confirmed by the membership of the church, would, if it conflicted with the law of the land, be a nullity?

Senator SMOOT. As to members of the church; yes.

The CHAIRMAN. You say as to members of the church.

Senator SMOOT. That is the only way it could be, Mr. Senator.

The CHAIRMAN. Do you make any distinction? You say it would be a nullity as to members of the church. Do you mean to the officials and all?

Senator SMOOT. To all.

The CHAIRMAN. Even when the person who receives the revelation and the church itself believe it to be from God direct?

Senator SMOOT. Well, I think the person who received it—of course, each person would have to act upon his own judgment in the matter; but I think that that would be required of the people of the church by the revelations we have already received.

Senator OVERMAN. I understand you to say, if I apprehend your answer correctly, that when a divine revelation is given to the president of the church, is submitted to the church conference, and is accepted by the conference, then, as a free agent, any member of the church has a right to disobey it?

Senator SMOOT. They have, Senator.

Senator OVERMAN. The manifesto is a revelation from God, which was submitted to the church and accepted by the church. Then any member of the church as a free agent has a right to disobey it?

Senator SMOOT. They have. They have the free agency.

Senator DUBOIS. Senator Smoot, if you refused as an apostle to accept a revelation received by Joseph Smith and sustained by the church, could you retain your position as an apostle in the church?

Senator SMOOT. If I did not understand that revelation, I think so.

Senator DUBOIS. My question is if you refused to accept it?

Senator SMOOT. I rather think so; the same as a member of the church would in not living up to any of our principles that they may not live up to. I would be derelict.

Senator DUBOIS. Could you answer directly whether or not you would retain your position as an apostle of the church?

Senator SMOOT. I could not answer that direct, yes or no, because I do not know what the church would do.

Senator DUBOIS. You would be out of harmony, would you not?

Senator SMOOT. I say I would be derelict, I think.

Senator DUBOIS. You do not know what the consequences would be as regards your apostleship?

Senator SMOOT. I could not say, Mr. Senator.

Senator KNOX. Senator Smoot, let me ask you what I consider a question that should have followed Senator Beveridge's question.

I understand you, then, that fundamentally and primarily it is a law of the Mormon Church that you must obey the law of the land?

Senator SMOOT. That is correct.

Senator KNOX. If there should be a revelation now that commanded you to disobey the law of the land, that revelation would be in conflict with one of the fundamental principles of your religion?

Senator SMOOT. It would.

Senator KNOX. Is that correct?

Senator SMOOT. That is correct.

Senator KNOX. That is all.

Senator FORAKER. I understood you to say that rather than to undertake to obey such a revelation you would leave the country and go where the law of the land would permit obedience to the revelation?

Senator SMOOT. Yes: if God had given it to me himself, then I would, because I would feel then that I was under direct obligation to my Maker to carry out what He revealed directly to me, and if I could not do it in this country I would go to some other country where I could.

Mr. TAYLER. So that you would, of course, obey the revelation coming from God?

Senator SMOOT. If I knew that God had spoken to me I would obey it.

Mr. TAYLER. Suppose the revelation commanded of God was that you should do a certain thing and also stay in the country?

Senator SMOOT. Well, I do not think the God I worship is such a God.

Mr. TAYLER. That is your answer to the question?

Senator FORAKER. You think that is hardly a fair suppositions case? case?

Senator SMOOT. I do not think it is probable or possible.

Senator OVERMAN. If you have a right to disobey the law of God given to the church, why would you not have a right as a free agent to disobey a revelation given to you as an individual?

Senator SMOOT. I would have that, Senator. God could not take it away from me.

Senator OVERMAN. Then you would not have to leave the country? You could disobey it?

Senator SMOOT. I would not obey it. I say it is not necessary for me to obey it, even though God spoke to me.

Senator OVERMAN. You would not be condemned by God, then, if you disobeyed it?

Senator SMOOT. Certainly I would.

Senator OVERMAN. Then, if you disobeyed a revelation given to the church and accepted by the church, you would also be subject to be condemned by God?

Senator SMOOT. Whatever wrong there may be in it, I would have to answer for that wrong.

Mr. TAYLER. You say that the law of the land would prevail, because that is a fundamental doctrine of the church?

Senator SMOOT. I say so.

Mr. TAYLER. That is the reason?

Senator SMOOT. I say that that—

Mr. TAYLER. Is that the reason?

Senator SMOOT. I think you could infer that.

Mr. TAYLER. Was the law commanding polygamy a revelation from God?

Senator SMOOT. I understand so.

Mr. TAYLER. It was just as much a revelation——

Senator SMOOT. Wait. Excuse me. I do not think there is any revelation commanding polygamy.

Mr. TAYLER. I mean the plural-marriage revelation.

Senator SMOOT. If you will say the celestial marriage, or the revelation including plurality of wives——

Mr. TAYLER. No. I quote from the Doctrine and Covenants, which describes, as Doctor Talmage persisted in my remembering, a revelation on the eternity of the marriage covenants, including plurality of wives.

Senator SMOOT. That is right—including plurality of wives. I want to get it right; that is all.

Mr. TAYLER. That came directly from God?

Senator SMOOT. I understand so.

Mr. TAYLER. When God commands, as you interpret it, it is equally a command whether it is to do one thing or another, is it?

Senator SMOOT. I think so; but He did not command a man to go into polygamy or to practice it.

Mr. TAYLER. I understand.

Senator SMOOT. It was permissive and not mandatory.

The CHAIRMAN. It is a command only on the man who receives the revelation?

Senator SMOOT. I think if He commanded me, Mr. Chairman, to go into it, then it would be a command to me, and I would have to obey it; but otherwise I would not.

Senator FORAKER. But you do not understand that He ever did make any such command?

Senator SMOOT. Not on the church. He said it was permissive. I understand from the revelation that He did make a command on Joseph Smith, and he is the only one.

Mr. TAYLER. The section to which you refer as to rulers, States, and governments, was not a revelation?

Senator SMOOT. I think there is a revelation. If you will hand that book to me I will try to find it. There is a revelation there.

Mr. TAYLER. There is a revelation which requires that you shall keep all constitutional laws?

Senator SMOOT. There is another one there, Mr. Tayler. That is a revelation, and it is mandatory.

Mr. TAYLER. And that is mandatory?

Senator SMOOT. That is mandatory.

Mr. TAYLER. That came from God. Do you not think God could revoke that revelation?

Senator SMOOT. Well, I rather think God could.

Mr. TAYLER. You rather think He could?

Senator SMOOT. Yes; but I do not think He would.

Senator FORAKER. You think God is omnipotent?

Senator SMOOT. I do.

The CHAIRMAN. Then why do you say you rather think He could? Have you not any positive opinion on that subject?

Senator SMOOT. He could, Mr. Chairman, but I said that I do not think He would.

Mr. TAYLER. Your people, or many of them, persisted in the violation of the law against polygamy up to 1890 on the claim that there was no law against it?

Senator SMOOT. On the claim that they thought it was interfering with religious liberty.

Mr. TAYLER. I am not going to touch this particular subject any more, and if any Senator has any particular question to ask about it, this would be an opportune time.

To what order of the priesthood do you belong, Senator?

Senator SMOOT. To the Melchisedec priesthood.

Mr. TAYLER. That is the highest order?

Senator SMOOT. There are two orders, the Aaronic and the Melchisedec.

Mr. TAYLER. That is the higher order?

Senator SMOOT. The higher order.

Mr. TAYLER. The Melchisedec is the higher?

Senator SMOOT. I hold the same priesthood that an elder holds, or that a seventy holds, or that a high priest holds.

Mr. TAYLER. As high as anybody holds.

Senator SMOOT. As high as anybody holds.

Senator OVERMAN. Does your church believe in apostolic succession?

Senator SMOOT. I would have to ask you to make that more specific.

Senator OVERMAN. Christ held the order of the Melchisedec priesthood. Do you succeed him—

Senator SMOOT. I understand that Christ held the Melchisedec priesthood.

Senator OVERMAN. And these apostles succeed him in the same degree that he was of that order?

Senator SMOOT. Not only the apostles, but anybody who holds the office of an elder, who is of the Melchisedec priesthood. The difference is simply in the calling of the priesthood.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. The fact that you are an apostle does not affect in one way or another the quality of your priesthood?

Senator SMOOT. Not in the least.

Mr. TAYLER. What are your duties as an apostle?

Senator SMOOT. My duties as an apostle are to preach the gospel.

Mr. TAYLER. At any particular place?

Senator SMOOT. No special place; only as directed by the presidency of the church. I have other duties, of course.

Mr. TAYLER. What other duties are there?

Senator SMOOT. Wherever sent by the presidency into a stake or anywhere, to go there, and if sent by him, to attend to whatever matter there may be to attend to.

Mr. TAYLER. Are you still at the head of the Provo Woolen Mill?

Senator SMOOT. I am not now the manager. I used to be the manager—up to the time I was elected Senator—but I am still president of the Provo Woolen Mills.

Mr. TAYLER. You continued to be manager after you became an apostle and until you became Senator?

Senator SMOOT. I did. I was manager then.

Mr. TAYLER. That was for about how long?

Senator SMOOT. About three years.

Mr. TAYLER. Were you and are you engaged in any other business?

Senator SMOOT. I am.

Mr. TAYLER. You stated the facts generally in your direct examination. I do not mean to ask you whether you have a business relation, as having investments, but what other business have you that takes your time and attention?

Senator SMOOT. I am president of the Provo Commercial and Savings Bank, and I am a director in a good many of the institutions in Salt Lake—the Deseret Savings Bank, the Deseret National Bank, and Clark Eldredge & Co., and Zion's Cooperative Mercantile Institution.

Mr. TAYLER. By the way, there was a question asked here the other day about the branches of the Zion Cooperative Mercantile Institution?

Senator SMOOT. Yes.

Mr. TAYLER. How many branches are there?

Senator SMOOT. The Zion Cooperative Mercantile Institution has a wholesale branch at Provo, for the distribution of goods in the South. They have a wholesale and retail branch at Ogden, and they have a little retail store up at Idaho Falls.

Mr. TAYLER. And none elsewhere?

Senator SMOOT. None elsewhere.

Mr. TAYLER. No branch of any kind elsewhere?

Senator SMOOT. Not elsewhere.

Senator DUBOIS. Idaho Falls is in Idaho?

Senator SMOOT. Yes; Idaho. But I rather think we will close that out just as soon as we get a chance. It is only a retail store.

Mr. TAYLER. Now, Senator, to what extent do you understand what you may call the hierarchy—whatever is composed in the ruling authorities of the church—have authority or jurisdiction over the affairs of the Mormon people?

Mr. WORTHINGTON. I suggest that you had better state what authorities you include in that description.

Mr. TAYLER. Whatever the authorities are. I do not care who they are; whether one man or a thousand. I am only asking as to the hierarchy.

Senator SMOOT. I do not know what you mean by that. I can tell you what the general authorities of the church are.

Mr. TAYLER. They are who?

Senator SMOOT. The general authorities of the church are the presidency of the church, the quorum of the twelve apostles, the seven presidents of the seventies, the presiding bishopric, and the presiding patriarch.

Mr. TAYLER. Now you may answer the question which I asked you. We have had explained to us who the authorities are and how they act. Now, what authority or jurisdiction do they exercise over the people?

Senator SMOOT. In what respect?

Mr. TAYLER. In respect to spiritual or temporal affairs.

Senator SMOOT. In regard to spiritual affairs they have the direct charge of all the organizations, spiritual organizations or church organizations, that there are in the church. As to temporal affairs, they have simply the control of whatever temporal matters are owned by the church within the church.

Mr. TAYLER. The interests of the people of the church, in so far as

those interests are related to the church, are the subject of their jurisdiction, are they not?

Senator SMOOT. They have no interest whatever in the people's affairs.

Mr. TAYLER. For instance, Senator, you heard the testimony here in the Birdsall case, did you not?

Senator SMOOT. Yes; I heard that testimony.

Mr. TAYLER. You have heard it referred to often?

Senator SMOOT. Yes.

Mr. TAYLER. There one party brought complaint in a bishop's court against a woman, claiming that she had title to a piece of land that he ought to have title to.

Senator SMOOT. By the way, in that case, I have understood, having received word, that Mr. Leavitt did not belong to the church at all. He is not a member of the church. I state this to show you how far wrong that very case has gone.

Mr. TAYLER. The case was there, Senator?

Senator SMOOT. It was.

Mr. TAYLER. Do you dispute that the case did occur?

Senator SMOOT. I do not.

Mr. TAYLER. So that they permit their courts to be used by Gentiles?

Senator SMOOT. Not by any law of the church.

Mr. TAYLER. Not by any law of the church?

Senator SMOOT. Or rule of the church.

Mr. TAYLER. Do you suppose that the bishop and his counselors who tried this case knew that Mr. Leavitt was not a member of the church?

Senator SMOOT. I do not know that.

Mr. TAYLER. Anyway, they entertained that case?

Senator SMOOT. They entertained that case.

Mr. TAYLER. And they did not ask Miss Birdsall whether she was willing or not?

Senator SMOOT. I rather think they did.

Mr. TAYLER. The record does not show it.

Senator SMOOT. The record shows they asked him.

Mr. TAYLER. They asked him.

Senator SMOOT. But—

Mr. TAYLER. But not her.

Senator SMOOT. But she made the appeal, and if she had not made the appeal she certainly would—I mean by making the appeal she certainly had given her consent.

Mr. TAYLER. After the bishop's court, which had brought her in before it, had made an order that she must make a deed to Joseph Leavitt for this land, what would have happened if she had not appealed and had refused to make the deed?

Senator SMOOT. I think they would have disfellowshipped her if she had not carried out the decision of the court.

Mr. TAYLER. They would have excommunicated her?

Senator SMOOT. Yes; I think so.

Mr. TAYLER. I use the word "excommunicated" because we understand that word a little better than the other.

Senator SMOOT. In order that there may not be any doubt in your mind as to why I hesitate in regard to excommunication or disfellow-

ship, I will say this. If it had been a man holding the priesthood the bishop's court could not have excommunicated him. It would have had to go to the high council.

Mr. TAYLER. You are an apostle of the church. I want to get at the theory upon which the church entertains such a case.

Senator SMOOT. They do not entertain such cases, but——

Mr. TAYLER. They entertained that case.

Mr. WORTHINGTON. Let the witness finish his answer. I insist that the witness be allowed to finish his answer.

Mr. TAYLER. Let him go on.

Mr. WORTHINGTON. Read the question and the answer as far as it has been given.

The reporter read as follows:

"Mr. TAYLER. You are an apostle of the church. I want to get at the theory upon which the church entertains such a case.

"Senator SMOOT. They do not entertain such cases, but——

"Mr. TAYLER. They entertained that case."

Senator SMOOT. I was in the presidency of Utah stake for five years, and I know positively that the instructions we received were not to entertain any case where titles to land or titles to water or anything of that sort were concerned.

Mr. TAYLER. Then do you deny that they entertained this case?

Senator SMOOT. I do not.

Mr. TAYLER. I say upon what theory do you say they did entertain it?

Senator SMOOT. I think it was inadvertently done by the presidency of the church, the case coming there as it did, and they busy as they are. I rather think it was inadvertently done by them, because their letters are of such a character that they prove that they had taken just the opposite position. Now, I am not referring to the letter that was written in this case here. That may have been written, and no doubt was, by them, but I believe it was inadvertently done.

Mr. TAYLER. Do you think the action of the bishop's court was inadvertently taken?

Senator SMOOT. That I can not say.

Mr. TAYLER. Do you think that the action of the high council of the stake was inadvertently taken?

Senator SMOOT. I know that the president of that stake had received a written letter from the presidency of the church telling him that these cases were not to be tried.

Mr. TAYLER. Before or after this?

Senator SMOOT. Before.

Mr. TAYLER. Before?

Senator SMOOT. As the letter so states here.

Mr. TAYLER. You will remember that the woman in the case, the accused in the case, communicated with the first presidency?

Senator SMOOT. I think she did.

Mr. TAYLER. And you know that she got more than one letter from the first presidency on the subject, do you not?

Senator SMOOT. I would not say that. I do not remember that.

Mr. TAYLER. She got one letter signed by all three of them in their own handwriting?

Senator SMOOT. If you suggest it, and say it is so, I would accept it.

Mr. TAYLER. The language of that answer is not formal, is it? It is printed here in the record.

Senator SMOOT. Yes; it is in the record.

Mr. TAYLER. It is not formal language; it is explicit.

Senator SMOOT. I could not say.

Mr. TAYLER. It refers to the case, does it not?

Senator SMOOT. I rather think it does.

Mr. TAYLER. It shows that the writer of the letter knew what the case was to which reference was made?

Senator SMOOT. I think so.

Mr. WORTHINGTON. Do you remember what is in the letter?

Senator SMOOT. I do not.

Mr. WORTHINGTON. Let the letter speak for itself.

Mr. TAYLER. No; I am cross-examining the witness. I am trying—

Senator BAILEY. Mr. Chairman, I object to counsel conducting this as if they alone were concerned. Counsel has a perfect right to make objections to questions or to the method of examination, but that objection should be made to the chairman. The counsel sit at the other end of the table and proceed to talk with each other, and to order the stenographer to put a thing down or to omit it, and it appears to me clearly an improper method of procedure. I suggest, in the best of humor, but I shall insist upon it, where objection is made, that it shall be made to the chairman, after the manner of a court.

Mr. WORTHINGTON. I would have been very glad indeed if from the beginning the proceedings here had been such as are ordinarily pursued in court.

The CHAIRMAN. The suggestion of the Senator from Texas is a very proper one, and if any objection is made on either side it should be addressed to the chair, so that the committee may pass upon it.

Mr. TAYLER. Do you recall, Senator, that in the letter from the first presidency reference was made to the fact that Miss Birdsall wanted either to appeal directly to the first presidency or go to law?

Senator SMOOT. I do not remember it.

Mr. TAYLER. And that the statement was that she should obey the order of the Lord?

Senator SMOOT. I would not like to testify without knowing positively.

Senator BEVERIDGE. What is that?

Senator SMOOT. I would not like to testify with respect to what is in that letter without knowing positively.

Mr. TAYLER. I call your attention to the letter, printed on page 328 of the second volume.

Mr. WORTHINGTON. The original letters, which are now referred to—

Mr. TAYLER. I do not care for the original letters. They are printed here.

Mr. WORTHINGTON. I will say that after we got through using them I handed them to Senator Smoot, and asked him to retain them until the committee had given some order in regard to them.

The CHAIRMAN. Have you the letters?

Senator SMOOT. I received the letters from Mr. Worthington, and I think I gave them to Mr. Van Cott, did I not?

Mr. VAN COTT. I do not think so, Senator, although you may have done so. If I have them they are at the rooms with the other papers.

Mr. WORTHINGTON. I am informed that they are in the Senator's office in the Maltby Building.

The CHAIRMAN. Proceed, Mr. Tayler.

Mr. TAYLER. Do you recall that that letter written to her states that—

"This is in answer to yours of the 10th instant, in which you express a desire to appeal your case direct to us from the bishop's court or go to law.

"In answer we would say that in all such matters all members of the church are expected to follow the order of the church governing them, and that order provides that an appeal may be taken from the bishop's court to the high council and from the high council to the first presidency.

"We would advise you to follow the order provided of the Lord to govern in your case."

Mr. WORTHINGTON. From what page do you read?

Mr. TAYLER. 328.

Senator SMOOT. I think the letter means this, that she had started the case in the bishop's court, and after she had received the bishop's decision and was dissatisfied she then wanted to appeal to them or go to law—

Mr. TAYLER. That she had started the case?

Senator SMOOT. Well, the case was started, and she was a party to the case.

Mr. TAYLER. Now, then, you recall that later on, April 10, 1903, the presidency of the church, Joseph F. Smith, John R. Winder, and Anthon H. Lund, wrote to her, saying:

"We have carefully read your communication of the 23d ultimo, setting forth exceptions to the decision rendered by the high council of the Sevier stake in the case of *Leavitt v. Birdsall*, and are perfectly satisfied that the points raised by you are not sufficient to justify you in refusing to recognize former rights to the land in question, and we therefore have affirmed the decision in the case and informed the stake presidency accordingly."

Senator SMOOT. I say that I believe that was done inadvertently by the presidency of the church, because I know I have received instructions absolutely contrary to that, as a member of the presidency of the Utah stake, and we never tried a case of that kind.

Mr. TAYLER. What kind of cases do they try?

Senator SMOOT. Those that include any moral wrongdoing.

Mr. TAYLER. I now have the letters. Here is a letter written November 7, 1895, in which they say:

"The appeal case of *James Poulsen v. Christian A. Christensen*, originally heard before the bishop's court of the Basalt Ward, and afterwards by the high council of the Bannock Stake of Zion, has received our attention. There are many matters that can be rightfully considered by the church courts and decisions rendered thereon, but when matters relating to the boundary of lands and kindred subjects are in dispute we think it better that such differences should be settled by arbitration or, if necessary to secure the rights of either party, by the duly constituted courts of the land. The case of *Poulsen v. Christensen* appears to hinge on just such a question, for if it should be

decided exactly where the boundary line between the lands of these brethren lay there would be no difficulty in reaching a conclusion with regard to the other questions involved."

Do you understand that that was a denial of the propriety of trying a land case if the boundary was not in dispute?

Senator SMOOT. I think so.

Mr. TAYLER. You do?

Senator SMOOT. I think so. It was a question of title to land.

Mr. TAYLER. Do you remember the reference that was made in these letters to the case at Paris, Idaho?

Senator SMOOT. I do not remember the details.

Mr. TAYLER. Do you not know that the case went on and that President Budge or the high council heard the case?

Senator SMOOT. No; I understood that President Budge testified that he did not hear the case.

Mr. TAYLER. I do not know that he testified on that particular phase of it at all.

Senator SMOOT. That is the only one I remember.

Senator DUBOIS. He testified generally, to the best of my recollection, that they had orders not to try land cases.

Senator SMOOT. He spoke of the case, and I think there was a specific case mentioned, and that the high council of that stake did not try it and would not.

Senator BAILEY. Mr. Smoot, you are not a lawyer?

Senator SMOOT. No, sir.

Senator BAILEY. Then, of course, when you say that a question of boundary is a question of title to land, you speak, in that opinion, as a layman.

Senator SMOOT. Oh, yes.

Senator BAILEY. Of course, a question of boundary does involve title to the land between the disputed boundaries.

Senator SMOOT. Yes.

Senator BAILEY. But a lawyer does not understand a boundary case to be exactly a case involving title to land.

Senator SMOOT. This is the way I construed it, at least: If the boundary line should be claimed by one party to be 10 feet out of line and should be moved 10 feet or a rod, or whatever the distance may be, further on the land of the other party, I of course took it that it was a question of land, or right and title to land.

Senator BAILEY. It does of course involve title to the land between the disputed boundaries, but it is not what we understand to be a case involving title to lands.

Senator SMOOT. A case of that kind, Senator, our church would not take up by the courts of the church and handle.

Senator BAILEY. I was rather impressed by the wisdom of the church in avoiding boundary line disputes, because they create more bad feeling than all others.

Senator SMOOT. We have a great many other disputes out there as to the title to water rights.

Mr. TAYLER. You said something, Senator, about the religion classes in the public schools.

Senator SMOOT. The public schoolhouses.

Mr. TAYLER. Yes; the public schoolhouses; and you put in evidence yesterday a recent order issued by the church——

Senator SMOOT. I believe that my attorney submitted it.

Mr. TAYLER. Saying that hereafter no religion classes should be held in the schoolhouses.

Senator SMOOT. Yes.

Mr. TAYLER. You know now, do you not, that several hundred such religion classes were being instructed in schoolhouses?

Senator SMOOT. Conducted, do you mean?

Mr. TAYLER. Well, conducted.

Senator SMOOT. In schoolhouses?

Mr. TAYLER. Yes.

Senator SMOOT. After school hours?

Mr. TAYLER. Yes.

Senator SMOOT. I so testified yesterday.

Mr. TAYLER. I do not know that you said how many. It was the number to which I was attaching importance.

Senator SMOOT. I could not say.

Mr. TAYLER. Do you remember the testimony of the State superintendent of public instruction?

Senator SMOOT. I think he stated there were some three hundred, as I remember it.

Mr. TAYLER. Do you have anything to do with the Sunday school system of your church?

Senator SMOOT. Nothing at all.

Mr. TAYLER. Who is at the head of it?

Senator SMOOT. President Joseph F. Smith.

Mr. TAYLER. Who is in immediate charge of that branch of your church work?

Senator SMOOT. Lars Eggertsen.

Mr. TAYLER. What position does Joseph M. Tanner hold in relation to it?

Senator SMOOT. He is over the whole.

Mr. TAYLER. Of course the president of the church is the head of it all.

Senator SMOOT. Yes.

Mr. TAYLER. Joseph M. Tanner is the general superintendent?

Senator SMOOT. Yes.

Mr. TAYLER. He is a man who is said to be a polygamist?

Senator SMOOT. Yes.

The CHAIRMAN. By whom is he chosen or appointed to that position?

Senator SMOOT. By the president of the church.

The CHAIRMAN. When was his appointment made, if you know?

Senator SMOOT. I would not want to testify. I should say within three or four years; something like that.

The CHAIRMAN. At the time the appointment was made, was he known to be a polygamist?

Senator SMOOT. I think so.

Mr. TAYLER. You know, Senator, that during the last school year, 1903-4, instructions were issued to the various teachers——

Senator SMOOT. I heard that testified to here.

Mr. TAYLER. As to the subjects concerning which they should instruct the children?

Senator SMOOT. I remember it being presented here to this committee.

Mr. TAYLER. And you recall that those teachers were directed to instruct the children, among other things, in the lives of all the prominent Mormons?

Senator SMOOT. I think so.

Mr. TAYLER. The living as well as those who had passed away?

Senator SMOOT. Well, if you would suggest it, I would say so; yes.

Mr. TAYLER. For instance, the life of—

Senator SMOOT. I have no doubt of it.

Mr. TAYLER. The life of President Joseph F. Smith?

Senator SMOOT. He is living.

Mr. TAYLER. And of Elder B. H. Roberts?

Senator SMOOT. He is living.

Mr. TAYLER. And of Supt. Joseph M. Tanner?

Senator SMOOT. He is living.

Mr. TAYLER. And of Elder Reed Smoot, of course, which would be a proper subject. Of Mathias Cowley?

Senator SMOOT. He is living.

Mr. TAYLER. Of Mariner W. Merrill?

Senator SMOOT. He is living.

Mr. TAYLER. Of John W. Taylor?

Senator SMOOT. He is living.

Mr. TAYLER. Of Heber J. Grant?

Senator SMOOT. He is living.

Mr. TAYLER. Of George Teasdale?

Senator SMOOT. He is living.

Mr. TAYLER. Of John Henry Smith?

Senator SMOOT. He is living.

Mr. TAYLER. Of Francis M. Lyman?

Senator SMOOT. He is living.

Mr. TAYLER. And except yourself all of them are polygamists?

Senator SMOOT. I did not follow it with that purpose in view, but I rather think they are.

The CHAIRMAN. Now, let me understand, Senator. Was the instruction given that biographies of these parties should form the text-books of the religion classes, or that the religion classes should be instructed in the lives of those men?

Senator SMOOT. I do not think so. Of course, I have never had anything to do with the religion class work at all, but I take it that that is a part, perhaps, of the lesson—the lives of one of the men spoken of—but I do not think that they would in speaking of them speak of them as polygamists and teach that, or try to teach it to the students or to the classes there.

The CHAIRMAN. Mr. Tayler, how did that appear; in what connection?

Mr. TAYLER. I can get at the fact more quickly in this way. Do you not recall—

Senator SMOOT. I do not want anything but the facts.

Mr. TAYLER. Do you not recall that the pamphlet was sent out by Anthon H. Lund, Rudger Clawson, and Joseph M. Tanner, general superintendency of the Sunday school system or the religious instruction?

Senator SMOOT. Oh! Is this the Sunday school?

Mr. TAYLER. General superintendency of religion class work. That is it.

Senator SMOOT. Then Tanner would not be on that.

Mr. TAYLER. Tanner is one of the general superintendents.

Senator SMOOT. Of religion class work?

Mr. TAYLER. It seems that he signed this pamphlet.

Senator SMOOT. He may be; I do not remember.

Mr. TAYLER. He signed this pamphlet in which religion class outlines are given, with an introduction describing what is the scope of it, in which, among other things this appears——

Mr. WORTHINGTON. From what page do you read?

Mr. TAYLER. Page 113 of the second volume.

"Abundant material for the biographical sketches of the present and many of the past leaders of the church may be found in the little work entitled 'Prophets and Patriarchs,' from the pen of Elder Mathias F. Cowley."

And after general instruction as to how this work is to be conducted, there is the list of lessons with the subjects; as, for instance, in the primary grades, without going all over them, I read:

"Lesson XII.

"Third step. How children should be grateful for food and clothing.

"Fourth step. Sketch of Elder John W. Taylor's life.

"Lesson XIII.

"Third step. How children should be grateful to parents for giving birth to and rearing them.

"Fourth step. Sketch of Elder M. W. Merrill's life."

That is Apostle Merrill.

"Lesson XXXIII.

"Third step. Why children should not be vain.

"Fourth step. Sketch of Elder B. H. Roberts's life, including his writings.

"Lesson XXXIV.

"Third step. Why children should avoid giving way to anger.

"Fourth step. Sketch of Supt. Joseph M. Tanner's life."

And so on.

Senator SMOOT. I take it that they are sketches in the course of the lessons of the day. Those lessons, I understand, were given one day a week.

Mr. TAYLER. Mr. Smoot, on the subject of polygamy, at this point, do you know how long ago it was first proclaimed and testified that polygamy was dead?

Senator SMOOT. No; I do not.

Mr. TAYLER. Is it not nearly twenty years?

Senator SMOOT. I could not say.

Mr. TAYLER. Was it not claimed at one time that no marriages, and if so, only one or two, which were actually sporadic, had occurred after 1885?

Senator SMOOT. I think it was later than that. As I remember that letter, it was from President Woodruff——

Mr. TAYLER. I am not referring to that.

Senator SMOOT. And I think——

Mr. TAYLER. I am not referring to the Woodruff letter, with which I am familiar.

Senator SMOOT. That is the only one I can remember.

Mr. TAYLER. Do you not know, as a matter of history, that that has been claimed.

Senator SMOOT. Not for twenty years, because twenty years ago the people were being sent to the penitentiary every day.

Mr. TAYLER. For what?

Senator SMOOT. For polygamy and unlawful cohabitation.

Mr. TAYLER. Do you not know there were very, very few people prosecuted for polygamy?

Senator SMOOT. Yes; there were very few cases; that is, I do not know how many. I could not say.

Mr. WORTHINGTON. Mr. Tayler, the original letters are here now. Do you care for them?

Mr. TAYLER. No; I have them in this typewritten form.

Senator SMOOT. Then I will give them to Mr. Van Cott.

Mr. VAN COTT. I would rather you would keep them.

Senator SMOOT. I will take them and return them.

The CHAIRMAN. On consultation with counsel and members of the committee, several of whom are compelled to be absent this afternoon in connection with ceremonies which are to take place in the Senate, I find the opinion is that we had better adjourn until Monday at 10 o'clock. We have had a very strenuous week of it.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee adjourned until Monday, January 23, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 23, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), McComas, Foraker, Dillingham, Hopkins, Dubois, Bailey, and Overman; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

TESTIMONY OF REED SMOOT—Continued.

The CHAIRMAN. Mr. Tayler, will you proceed with the witness?

REED SMOOT, having been previously duly sworn, was examined and testified as follows:

Mr. TAYLER. Senator, I asked you a question or two on Saturday about the trial of Moses Thatcher. He was tried, you told us, before the high council of the stake in which he lived, which had jurisdiction over him.

Senator SMOOT. I believe he was living in Salt Lake at the time.

Mr. TAYLER. The chronology of it, just to refresh our recollection about it, is that the apostles did not present him to the conference in 1896, and they dropped him from his apostleship in November, 1896, and after that he was tried by the high council, on what charge?

Senator SMOOT. For his fellowship or standing in the church, I think.

Mr. TAYLER. He was charged with apostasy, was he not?

Senator SMOOT. I have not read over the testimony. I do not know.

Mr. TAYLER. Later on, in 1897, some findings were made. Now, was not that trial practically exclusively based upon his difference with the church on the subject of their interference in politics?

Senator SMOOT. I would not want to say that it was, because I have not looked over the case. I know that that was one of the charges, and I believe the other day, in answer to a statement that you made, that he made an abject apology, I said "Yes." As I remember it now, he did not make an apology, but he stated that his idea of the rule, or the way he wanted it interpreted, had been met by the high council, or, in other words, they came to his conclusion as to what the rule meant.

Mr. TAYLER. Was not his claim that the rule invaded the province of the citizen—

Senator SMOOT. His claim—

Mr. TAYLER. Just let me finish the sentence.

Senator SMOOT. Yes.

Mr. TAYLER. And that when this high council, not one of whom was a member of the general authorities of the church, not one of whom had participated in the framing of this order, not one of whom was not his inferior, had interpreted it, under the law of the church, that was binding upon him regardless of his personal opinion about it?

Senator SMOOT. I will say that his claim was that that rule applied to everybody in the church, as I understand it, and that he said that that was invading the citizenship of the members of the church. But at the trial, when the interpretation of that rule was made, deciding that it applied only to the higher officers of the church, then did Moses Thatcher say that that was his contention, and that he was satisfied with it. I think that his testimony here so shows, while he was testifying before this committee, although I have not looked it up. It just came to my mind.

Mr. TAYLER. Now, as a matter of fact, he was, while a candidate for the United States Senate, threatened by the high officials of the church, and by the church organ, with church influence to defeat him?

Senator SMOOT. I do not know as to high officials in the church, but I know the Deseret News, in some of their articles, as I remember them, stated that Moses Thatcher's fight was antic church and that he based it upon that ground.

Mr. TAYLER. And that the church would interfere to defeat him?

Senator SMOOT. I do not remember that.

Mr. TAYLER. Do you remember what the letter that Councilor Woolley wrote, which was printed by the Deseret News and introduced here in evidence by yourself, said about that?

Senator SMOOT. I remember a Mr. Woolley, from St. George, writing a letter to his boys.

Mr. TAYLER. And that was published in the pamphlet which contains the church's side of this controversy, was it not?

Senator SMOOT. I remember so.

Mr. TAYLER. In which he said:

"While there may be a difference of opinion as to the wisdom of the course being pursued by the Deseret News in threatening the supporters of Thatcher for the Senate with church power, still I would rather have an open fight at any time than to be stating one policy for the outside to hear and pursuing another in secret, so that I am willing to stand by the church in an open fight for any principle of right, and at no matter what cost."

Mr. WORTHINGTON. From what page do you read?

Mr. TAYLER. Page 273. Do you understand that that stated the fact?

Senator SMOOT. That stated it as Mr. Woolley understood it.

Mr. TAYLER. Is not that the fact? Did he state the fact?

Senator SMOOT. I could not say, Mr. Tayler.

Mr. TAYLER. Now, respecting this matter of difficulty which Moses Thatcher had and for which he was tried, do you not know that this high council which tried him found that Moses Thatcher had "exhibited an apostate spirit and was unchristianlike in his conduct" in several respects, and I want to refer briefly to two or three of them.

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 566. In that he charged—"the authorities of the church with bad faith in declaring, first, that they would not interfere in politics, and next, that they intended to and would so interfere."

Is not that what they charged him with?

Senator SMOOT. If that says so, I should judge so.

Mr. TAYLER. You have undertaken to tell us what was the trouble. Was not that the trouble?

Senator SMOOT. No; I have not undertaken to tell it.

Mr. TAYLER. I thought you did here the other day. Do you not know what the trouble was?

Senator SMOOT. I know there was trouble between Moses Thatcher and some of the quorum of the twelve a number of years before this.

Mr. TAYLER. Now I want to call attention to the actual thing for which he was tried. You have undertaken to leave the impression, honestly, of course—I am not criticising that—that the trouble for which Moses Thatcher was tried was old, and that it had but slight and trivial relation to this political manifesto that the church had issued and to his candidacy for the United States Senate.

Senator SMOOT. I did not wish to convey that impression at all. I only made the statement I did in relation to there having been a feeling—and there had been difficulties for years before—between Moses Thatcher and some of the quorum of the twelve, and they were not in harmony in their business relations. I understood, and I so stated, I think, that this question of interference, as he claims, was a part of the complaint and a part of the trouble.

Mr. TAYLER. Was he not charged with "an apostate spirit" and with being "unchristianlike in his conduct," because he said:

"The spirit of the manifesto, as it appealed to me, was in violent antagonism to all I had believed and publicly proclaimed for many years, and I could not and so far have not been able to bring myself to a point where I believed I should yield my political judgment to any set of men, however praiseworthy their intentions."

Senator SMOOT. I think where he says "manifesto," he means the rule of 1896.

Mr. TAYLER. Yes; undoubtedly. We are talking about the political manifesto, not the manifesto of 1890.

Senator SMOOT. And, as I stated, that was his contention—that that applied to all members of the church, and that is the reason why he felt it was not conducive to good membership.

Mr. TAYLER (reading): "When the manifesto"—

He continued, and he is charged with acting in an unchristianlike way for saying this:

"When the manifesto was presented to me it appeared to my mind as a command on all to recognize the right of the church authorities to control political concerns; it meant, so far as I was concerned, a recantation of the principles I had for years advocated—a receding from the ground I had occupied during the division movement, and, above all, it made me feel that I would be untrue to myself."

And so on.

Senator SMOOT. That would be true if the construction of the manifesto had been as he thought it was when he wrote that.

Mr. TAYLER. And because he said this:

"No legislator can keep his oath of office inviolate if he or she allows the officials of an ecclesiastical organization to control his actions within the province of the State."

Senator SMOOT. I rather think he said that.

Mr. TAYLER. Do you see any criticism properly to be urged against that statement?

Senator SMOOT. I do not. If there was any church that tried to control the action of any legislator it would be wrong and most reprehensible.

Mr. TAYLER. Why do you understand that he was tried for saying that—

"No legislator can keep his oath of office inviolate if he or she allows the officials of any ecclesiastical organization to control his actions within the province of the State"—

If there was no such effort being made or thought of?

Senator SMOOT. I think he must have been making the statement that the church was doing that, and they claimed that they were not.

Mr. TAYLER. And he is charged with un-Christianlike conduct and an apostate spirit for having said this:

"Doubtless a great struggle is now inaugurated in Utah. A struggle for freedom, for liberty, for the integrity of free government, for the principles incorporated in American institutions. If the State is to be controlled by the dictation of the church its sovereignty is lost and its independence is a myth, an iridescent dream."

And so on.

Senator SMOOT. If it is a charge against him, it must have been based upon the fact that he had made a statement to that effect.

Mr. TAYLER. At the close of the findings the high council which tried him, before their decision, say:

"It was also very gratifying to hear Brother Thatcher acknowledge the apostles as the mouthpieces of the Lord."

You understand that an apostle is a mouthpiece of the Lord?

Senator SMOOT. Not unless he speaks by command from the Lord. I understand that the president of the church when speaking to the church is the mouthpiece of the Lord.

Mr. TAYLER. Do you want to correct this statement of the high council?

Senator SMOOT. Oh, I could not say as to that. I could not be—

Mr. TAYLER. Is it correct that the apostles are the mouthpieces of the Lord?

Senator SMOOT. I do not so understand it.

Mr. TAYLER. Then this is not correct?

Senator SMOOT. I do not think the apostles are the mouthpieces of the Lord. I think the president of the church when speaking—

Mr. TAYLER. They go on to say:

“The apostles as the mouthpieces of the Lord, clothed with authority as prophets, seers, and revelators.”

That is right.

Senator SMOOT. I think a man is a prophet when he speaks by the spirit of prophecy.

Mr. TAYLER. Now, let us not get men and apostles mixed, Senator.

Senator SMOOT. An apostle—

Mr. TAYLER. You are an apostle?

Senator SMOOT. I think an apostle can only be a prophet when he speaks with the spirit of prophecy.

Mr. TAYLER. Very well. Then this would have been quite as accurate if it had said:

“It is very gratifying to hear Brother Thatcher acknowledge that all good Mormons are the mouthpieces of the Lord, clothed with authority as prophets, seers, and revelators.”

Is that right?

Senator SMOOT. They are not sustained as such. That would be the only difference.

Mr. TAYLER. Do you know who formed this high council—the chiefs of it?

Senator SMOOT. I know who the presidency of that stake were.

Mr. TAYLER. Who were they?

Senator SMOOT. Angus M. Cannon—

Mr. TAYLER. And Joseph E. Taylor?

Senator SMOOT. Joseph E. Taylor and C. W. Penrose.

Mr. TAYLER. Three of the most intelligent, ecclesiastically speaking, of all of your church authorities?

Senator SMOOT. Oh, I could not say that.

Mr. TAYLER. I did not say the most intelligent. I say they rank very high.

Mr. VAN COTT. I think you said three of the most intelligent.

Senator SMOOT. I misunderstood you, then.

Mr. VAN COTT. May we have the question read?

The CHAIRMAN. It is not of sufficient consequence. Proceed.

Senator SMOOT. That is the way I understood it.

The CHAIRMAN. Let the reporter read the question.

The reporter read as follows:

“Mr. TAYLER. Three of the most intelligent, ecclesiastically speaking, of all of your church authorities?”

Mr. TAYLER. In the decision they find that—

“The charges against Brother Moses Thatcher have been sustained, and that in order to retain his standing and fellowship in the Church of Jesus Christ of Latter Day Saints he publish a statement to the satisfaction and approval of the presidency of this stake of Zion fully covering the following points.”

Then follow a number of points, to one or two of which I wish to refer. First, although they are not numbered in the decision, but I will so designate them:

“That in taking the position that the authorities of the church, by issuing the declarations of principles on April 6, 1896, acted in violation of pledges previously given and contrary to what they had pub-

lished in the Deseret News and given to the Salt Lake Times, he was in error and in the dark."

Senator SMOOT. Moses Thatcher so stated, that he was mistaken in that matter, I understand.

Mr. TAYLER. I will come to his language in a moment.

"That he now sees there is no conflict between that declaration and their former utterances in reference to political affairs.

"That he was mistaken in conveying the idea that the church authorities desired and intended to unite church and state or to exercise undue influence in political affairs.

"That wherein the public have been led to believe through his utterances that the leaders of the church were forging chains to bind the members of the church, an impression was created which he did not intend and does not wish to prevail.

"That wherein he has placed the authorities of the church in a false position, however unintentionally, he has done them an injustice, and is ready to make such amends as lie in his power.

"That he acknowledges the first presidency and council of the apostles as God's servants, as prophets, seers, and revelators, and their authority as supreme in the church."

Do you shy at the word "supreme?"

Senator SMOOT. I do not know what you mean by "shying."

Mr. TAYLER. I mean, do you feel, as Doctor Talmage did, as though something was going to happen if you permitted yourself to face that word squarely?

Senator SMOOT. I can not tell how Doctor Talmage felt. I do not want to avoid a thing——

Mr. TAYLER. No.

Senator SMOOT. Or a question, or anything that may be asked me. I will answer to the best of my ability.

Mr. TAYLER. Undoubtedly, Senator, but you heard Doctor Talmage when I introduced the word "supreme" here the other day respecting the first presidency, did you not?

Senator SMOOT. I do not want——

Mr. TAYLER. Did he not shy all around that word, claiming that I was digging a pit, or his counsel did, because I was trying to put the word "supreme" into his mouth?

Senator SMOOT. I was out at the time when Doctor Talmage so testified.

Mr. TAYLER. But that is right?

Senator SMOOT. Not as I understand it. I do not understand that the presidency and the 12 apostles are supreme in all things. I understand that anything pertaining to the church the presidency of the church is at the head of the church.

Mr. TAYLER. That is what Moses Thatcher agreed to, anyhow?

Senator SMOOT. That I can not say either.

Mr. TAYLER. Did not Moses Thatcher swallow this whole thing—bait, line, hook, everything—without a qualification or reservation? Did he not, Senator?

Senator SMOOT. I think he accepted that.

Mr. TAYLER. I will read what he said.

Mr. SMOOT. That will be better.

Mr. TAYLER (reading):

“BROTHER THATCHER’S INDORSEMENT.

“Without qualification or mental reservation I accept this decision in full.

“MOSES THATCHER.”

Senator SMOOT. He accepted it then.

Mr. TAYLER. This is what Moses Thatcher also agreed to, according to these findings:

“That he was in error in stating in his published letter to President Lorenzo Snow:

“‘During all these weary months, while friends and physicians believed I was on the verge of the grave, I was administered to only once by members of our quorum, although day after day engagements made for that purpose were, for reasons unknown to me, not kept.’”

Then the finding—

“In this connection he may state that one such engagement was not kept, but that this was not an intentional breach of promise.”

Do you recall that?

“That in speeches and published letters he has used expressions which had been better unsaid, and that he regrets their utterance.

“That he knows of no higher allegiance or more solemn and binding obligations than those of a religious character between a man and his God.

“That in speaking of ‘chains,’ ‘oppression,’ ‘curtailment of liberty,’ ‘malice,’ ‘anger,’ ‘spite,’ and ‘revenge,’ he did not intend to reflect upon the authorities of the church in any way, and is grieved that his language has been so construed.”

Senator SMOOT. I think that was one of the charges that he was tried on, and now he says it is not true.

Mr. TAYLER. Do you think that when he did make use in this connection of the words “chains,” “oppression,” “curtailment of liberty,” “malice,” “anger,” “spite,” and “revenge,” he did not intend to reflect upon the authorities of the church in any way?

Mr. WORTHINGTON. I object to that question unless the witness shall be shown the connection in which Moses Thatcher is alleged to have used the language. How can anybody say whether Moses Thatcher intended to cast a reflection upon the church unless he is shown the connection in which Thatcher used the language?

Moreover, I object, Mr. Chairman, to the witness being interrogated as to what he thinks Moses Thatcher meant by writings which are in evidence in this case.

Mr. TAYLER. Now, Senator—

The CHAIRMAN. I should like to ask you a question in this connection, Senator. Is the first presidency supreme in all affairs relating to the church?

Senator SMOOT. The first presidency is supreme in all affairs pertaining to the church.

The CHAIRMAN. In everything relating to the church?

Senator SMOOT. Well, of course, when it comes to a question of a revelation that is to be binding upon the people, the president himself receives it, and it must be accepted by the people.

The CHAIRMAN. I understand.

Senator SMOOT. He could not be supreme in that sense. But what I mean is that by being the head of the church——

The CHAIRMAN. He is supreme in the government. As head of the church he is the supreme head.

Senator SMOOT. He is the highest authority in the church.

The CHAIRMAN. Am I to understand you to say that the apostles are not prophets?

Senator SMOOT. I say they are sustained as prophets. I qualified it in this way, by saying that I do not think a man is a prophet at any time unless he speaks by the spirit of prophecy, or, in other words, I do not believe that a man has always the spirit of prophecy upon him.

The CHAIRMAN. I think I can make myself clear. You think that the president of the church communicates directly with God; that he has direct revelations?

Senator SMOOT. If God desired to speak to his people, it would be through the president of the church.

The CHAIRMAN. Does God speak through the apostles in the same way?

Senator SMOOT. Oh, no; not in the same way.

Senator OVERMAN. Then what do you understand to be the authorities and duties of the twelve apostles?

Senator SMOOT. The apostles are advisers to the presidency of the church. They meet with them and counsel with them, and their duties are, of course, defined in the Doctrine and Covenants; they are those of directing the missionary work and as missionaries to the world.

Senator OVERMAN. Only in missionary matters?

Senator SMOOT. I was going to say, Mr. Senator, and further than that, if they are at home they are under the direction of the first presidency, to go into stakes and organize those stakes, providing they act by direction of the first presidency. But an apostle has no more authority in a stake of Zion or in a ward in which he lives than a lay member has, unless he has been sent there by the presidency to act in their stead.

Senator OVERMAN. Does each one of them have separate and defined duties to perform?

Senator SMOOT. No, they have not.

Senator OVERMAN. They are only advisers of the first presidency?

Senator SMOOT. The first presidency.

Mr. TAYLER. And the seat of the authority that selects his successor?

Senator SMOOT. When the president dies the only authority for the direction of the church rests with the twelve apostles.

Mr. TAYLER. They act in the interim as the head of the church and nominate the man who is to succeed the dead president?

Senator SMOOT. Yes, sir.

Mr. TAYLER. Now, I also asked you the other day whether it was not necessary that the apostles should be unanimous, and you said you thought not.

Senator SMOOT. I know they have not been.

Mr. TAYLER. Of course, they are not unanimous at all stages, but I read from section 107 of the Doctrine and Covenants, verse 23:

“The twelve traveling counselors are called to be the twelve apos-

ties, or special witnesses of the name of Christ, in all the world; thus differing from other officers in the church in the duties of their calling."

Senator SMOOT. Let me have the volume, please.

Mr. TAYLER. Certainly.

Senator SMOOT (reading): "The twelve traveling counselors are called to be the twelve apostles, or special witnesses of the name of Christ, in all the world; thus differing from other officers in the church in the duties of their calling."

Mr. TAYLER. Those are the twelve apostles?

Senator SMOOT. Yes; those are the twelve apostles.

Mr. TAYLER. I now read from the next verse, the 24th:

"And they form a quorum equal in authority and power to the three presidents previously mentioned."

Senator SMOOT. That is correct.

Mr. TAYLER. That is, the first presidency?

Senator SMOOT. Let me explain what that means before you go any further. That means that in case the presidency of the church is disorganized by the death of the president, or otherwise, the quorum of the twelve apostles are equal to the presidency and they become the leading authority of the church.

Mr. TAYLER. I was not raising that question now.

Senator SMOOT. That is what it means.

Mr. TAYLER. That is not what I am after now. I want merely to identify those as the twelve apostles. Will you please read verse 27?

Senator SMOOT (reading): "And every decision made by either of these quorums must be by the unanimous voice of the same; that is, every member of each quorum must be agreed to its decisions, in order to make their decisions of the same power or validity one with the other."

Which means this, that if the presidency of the church is disorganized, the quorum of the twelve apostles are then in power or at the head of the church, and it takes the unanimous vote of that quorum on any question that may come up to equal a decision of the presidency of the church if they were at the head of the church.

Mr. TAYLER. Now there is no presidency of the church, and there are only twelve apostles.

Senator SMOOT. Now, I should like——

Mr. TAYLER. Then you say the twelve apostles must be unanimous?

Senator SMOOT. I want to go on further and state this: If the twelve apostles were all dead and the seven presidents of seventies took charge, it would be the same; or, in other words, whenever the presidency of the church is disorganized the quorum which has the authority to make rules binding upon the church, or to pass anything that would be binding on the people of the church, after presenting the same to the people, must be unanimous to be equal to the decision of the presidency of the church.

Mr. TAYLER. Then during the time that the twelve apostles were at the head of the church they could not act at all unless they were unanimous?

Senator SMOOT. I never asked that question, whether it was in that respect or not; whether they would have to be unanimous to elect a president or not; because that has never come to my attention. This is a section on priesthood, defining the duties and the callings of each of the quorums of the priesthood.

Senator OVERMAN. If I understand you, then, Senator, you say that as to things political and temporal the twelve apostles have nothing to do, and never discuss such subjects. Am I to understand that?

Senator SMOOT. They are asked many times about things temporal which pertain to the church only.

Senator OVERMAN. Church institutions?

Senator SMOOT. Yes; that the church own. For instance, take the Deseret News building, which the church built on the corner of South Temple and Main streets. They built it for the purpose of a home for the Deseret News, and also an office building. That question was brought before the quorum of the twelve by the presidency of the church for advice.

Senator OVERMAN. Take your own business.

Senator SMOOT. I stated then that I was opposed to that, and I gave as my reason why I was opposed to it, that I would much prefer the church to get out of debt rather than to go in debt to build a building that would not pay interest on the amount of money invested.

You ask as to my own affairs. The church has no more to do with my personal affairs than you, Senator.

Senator OVERMAN. Now, let the reporter read my question and see if you have answered it completely.

The reporter read as follows:

"Senator OVERMAN. If I understand you, then, Senator, you say that as to things political and temporal the twelve apostles have nothing to do and never discuss such subjects. Am I to understand that?"

Senator SMOOT. I stated that they discussed things temporal as far as the temporal things pertained to the church.

Senator OVERMAN. You do not discuss political matters at all.

Senator SMOOT. We do not discuss political matters as a quorum of the twelve.

Senator OVERMAN. That was included in the question, and I thought you would like to answer as to that part.

Senator SMOOT. Thank you, Senator.

Senator OVERMAN. Those matters are never discussed?

Senator SMOOT. They are never discussed in the quorum of the apostles.

Mr. TAYLER. But you do discuss all matters in which the church has business or temporal interests?

Senator SMOOT. Yes. If the church has temporal interests, whenever the presidency of the church ask our advice, we give it, and give it freely as we think best.

Mr. TAYLER. The church owns not only the building, but owns the Deseret News, does it not?

Senator SMOOT. Yes; they own the Deseret News.

Senator DUBOIS. How much did the building cost, Senator?

Senator SMOOT. I do not know what it cost, but my opinion—

Senator DUBOIS. Are taxes paid on it?

Senator SMOOT. Oh, yes.

Mr. TAYLER. Now, to continue with the line I was pursuing, do you understand that it is forbidden in the church to criticise the priesthood—to complain of them?

Senator SMOOT. I understand that it is not a proper thing to do that, at least until you go to them and let them know that you have a grievance against them.

Mr. TAYLER. But you ought to go at it through some higher authority?

Senator SMOOT. No; but you ought to go at it yourself right direct to the person against whom you have a grievance.

Mr. TAYLER. The Juvenile Instructor is a church publication, is it not?

Senator SMOOT. It is published by a company.

Mr. TAYLER. Is it not a church affair?

Senator SMOOT. No, the church does not own it. I will say this, however, that the publication is distributed to the church people—

Mr. TAYLER. We find here in the record an article by George Q. Cannon, published in the Juvenile Instructor.

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 448.

Mr. WORTHINGTON. Of the second volume?

Mr. TAYLER. Yes.

“The Lord has not given to the members of the church the right to find fault with or condemn those who hold the priesthood.”

Do you agree to that?

Senator SMOOT. I think that men speaking, and sometimes writing, make remarks which are their thought, and I do not think the people accept them, and I am sure it is not binding on them, and I think that anybody has the right to do what they want to, if they desire. But I do believe that, as a member of the church, where they have a grievance or where they feel that there is a fault it is proper for them to go to the party direct themselves and make it right.

The CHAIRMAN. Then what is the answer to the question, if the reporter will read it.

The reporter read the question as follows:

“Mr. TAYLER. Yes.

“The Lord has not given to the members of the church the right to find fault with or condemn those who hold the priesthood.”

“Do you agree to that?”

Senator SMOOT. I think the Lord has given a man the right to do that.

Mr. TAYLER. Or this:

“Neither is it the right of an elder or other officer to judge or censure or speak disrespectfully and condemnatory of his file leader or of the men who preside over him.”

Do you think that is correct?

Senator SMOOT. I do not think he would be justified in doing it without following the rule adopted by the church, to meet with him and discuss it.

Mr. TAYLER (reading): “Has any man in the church such a right?”—

It continues.

“Certainly not. If file leaders or presiding authorities do wrong God will deal with them in the way He has ordained.”

Is that your view of it?

Senator SMOOT. I think not. And I also think every man has a perfect right to say what he pleases here. I think if any man, whether a file leader or any other kind of a man in the church, does a wrong to a soul on earth God will punish him for it.

Mr. TAYLER (reading):

“There need be no fear that the Lord will neglect to hold His servants who lead or preside to a strict accountability for their con-

duct. He has made ample provisions, so that every person who is accused of wrong, however high his position in the church may be, can be brought to trial before a proper tribunal. No necessity will ever arise, therefore, for men to take upon themselves in their individual capacity the right to judge and condemn the Lord's servants."

Is that your view of it?

Senator SMOOT. My view is as stated first there, that there is not a person in the church, I do not care who, from the president to the humblest one, as to whom there is not a way to handle him for any wrong he may do.

The CHAIRMAN. I did not understand the question. I suggest that it be read again.

Senator FORAKER. Do not read it again; it is quite long.

Mr. TAYLER. I will read the latter part of it, and I ask Mr. Smoot whether he believes that this is the view that should be taken of the priesthood:

"No necessity will ever arise, therefore, for men to take upon themselves in their individual capacity the right to judge and condemn the Lord's servants."

Senator SMOOT. If one of the Lord's servants should do a wrong to me I would condemn him, and I would bring him to trial just the same as I would the most humble man in the church, and there are rules in the church for doing it.

Mr. TAYLER. But you would go to him, would you?

Senator SMOOT. I would try first to settle it with him, the same as I would with any other man.

Mr. TAYLER. But you would not condemn him otherwise than by going to him and stating that if he did not make it right you would bring him before the proper church authority?

Senator SMOOT. Of course I would.

Mr. TAYLER. Is that the only way you would do it?

Senator SMOOT. No; I would condemn him, and if it was not made right, I would file my complaint.

Mr. TAYLER. Would you make public condemnation of him?

Senator SMOOT. If he did wrong against me.

Mr. TAYLER. Without going to the man?

Senator SMOOT. No; I would go to the man. According to the rules of the church, I would first go to him, and then——

Mr. TAYLER. You must go to him?

Senator SMOOT. Not to him or anyone else in the church, Mr. Tayler.

Mr. TAYLER. I read from the Journal of Discourses, by Brigham Young.

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 457, where, amongst other things, he said:

"No man need judge me. You know nothing about it, whether I am sent or not; furthermore, it is none of your business, only to listen with open ears to what is taught you, and serve God with an undivided heart."

Senator SMOOT. That would never do to-day. I do not think that Brigham Young ever said that under any inspiration of the Lord, if he did say it.

Mr. TAYLER. You have no doubt of his saying it? It is published in the Journal of Discourses.

Senator SMOOT. There are quite a number of things in the Journal of Discourses which are not accepted by the church.

Mr. TAYLER. I understand that, but you believe it to have been said?

Senator SMOOT. As I said before, our people are called up from the audience to speak. Nobody knows when he is going to be called on. There is no special preparation for any sermon. A man gets up and speaks, and sometimes I think he says things that perhaps he would not say under calmer consideration. I know men sometimes speak under the spirit of inspiration, as it were. At other times it is a labored effort on their part, and they can hardly express themselves.

Mr. TAYLER. Now, what do you think about the spirit that moved Joseph F. Smith, December 5, 1900, when——

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 458. When he said this:

“I believe in union. I believe that except we are one in those things which pertain to the building up of Zion we are not God’s children. But I want to say to you that we are not one. There is not that union amongst us that should exist. Sometimes when President Snow tells a brother what he would like him to do, he at once turns on his heel and says that comes in contact with his manhood and his independence, and he prefers to follow the bent of his own mind rather than to take such counsel.”

Senator SMOOT. That man has that perfect right.

Mr. TAYLER. Who, Joseph Smith or the other man?

Senator SMOOT. No; the man to complain. He has a perfect right to complain.

Mr. TAYLER. Then Joseph Smith was not speaking the will of the church?

Senator SMOOT. Oh, he was speaking thus: That it was the wish of the authorities of the church, and the church itself, more than likely, that there should be unity among the members of the church, and which I believe would be a very good thing, not only in the Mormon Church, but in any other church upon the earth.

Mr. TAYLER. And that a man ought not to turn on his heel, when President Snow speaks to him, and say that conflicts with his manhood and independence?

Senator SMOOT. I do not say that. If he felt like that, that is what he has a right to do.

Mr. TAYLER. And he continued in this way——

“The question in my mind is this: Who is to judge who is the good man and the wise man? If you leave me to judge, I say one man; if you leave Brother Brigham to judge, he may say another man; or, if we leave it to the people to judge, one says this is the wise man, and another says that is the wise man. The question with me is: Am I in a frame of mind that when I get the word from the Lord as to who is the right man, will I obey it, no matter if it does come contrary to my convictions or predilections?”

Senator SMOOT. I think this is what he meant—that his judgment as to the good man may be one, mine may be another, just as he says there; but if the Lord should speak to him and tell him that it was such and such a man, then he would certainly obey the Lord.

The CHAIRMAN. That is the rule to-day. Senator?

Senator SMOOT. If the Lord should tell me, Mr. Chairman, and I knew it was the Lord, I do not think I would disobey it.

The CHAIRMAN. You would obey the command under such conditions?

Senator SMOOT. If God spoke to me.

Mr. TAYLER. What are the living oracles?

Senator SMOOT. As I understand they are men who preach the Word—the living oracles are.

Mr. TAYLER. The men who preach the Word?

Senator SMOOT. Preach under the inspiration of the spirit of our Lord.

Mr. TAYLER. They are only oracles when they speak with the inspiration of the Lord?

Senator SMOOT. I think so.

Mr. TAYLER. I see the statement here, on page 459, by Apostle Merrill, who spoke—

“Of the great goodness of the Lord in granting living oracles and prophets to the Latter Day Saints and said that the prophecies of the present were to be preferred to the Bible or to the Book of Mormon.”

Mr. WORTHINGTON. I object to Mr. Tayler assuming in this question that Mr. Merrill said that. All that the testimony shows is that the Daily Tribune published the statement that Mr. Merrill made that statement. There is no proof that he made it.

The CHAIRMAN. I suppose, Mr. Tayler, your point is to ascertain from the Senator whether he is in accord with that declaration or with such a declaration?

Mr. TAYLER. I do not say that Merrill said it. I say he is reported to have said it.

Mr. WORTHINGTON. You said he said it. Let the reporter read it.

The reporter read as follows:

“Mr. TAYLER. I see the statement here, on page 459, by Apostle Merrill, who spoke—”

Mr. TAYLER. Change that. I see, beginning on page 459 of the record, an extract from the Deseret Evening News of Monday, October 4, 1897, in which Apostle Merrill is reported to have said:

“The value of the living oracles of God for the present guidance of the people was strongly emphasized.

“President Wilford Woodruff spoke briefly upon the comparative value of the living oracles and the written word of God.”

Senator SMOOT. As I understand that, I suppose that is what you want me to give you, is it not?

Mr. TAYLER. Yes.

Senator SMOOT. It means that men speaking to-day under the inspiration of the Lord, their counsel is just as good as the counsel of the ancient prophets when they spoke under the inspiration of the Lord.

Mr. TAYLER. In the Journal of Discourses, volume 5, page 83, are some remarks by President Woodruff. You knew President Woodruff in his lifetime?

Senator SMOOT. I did.

Mr. TAYLER. He there said:

“Now, whatever I might have obtained in the shape of learning by searching and study respecting the arts and sciences of men, whatever principles I may have imbibed during my scientific researches, yet if the prophet of God should tell me that a certain principle or theory which I might have learned was not true, I do not care what my ideas might have been, I should consider it my duty, at the suggestion of

my file leader, to abandon that principle or theory. Suppose he were to say the principles by which you are governed are not right, that they were incorrect, what would be my duty? I answer that it would be my duty to lay those principles aside, and to take up those that might be laid down by the servants of God."

Have you any doubt about his having said that?

Senator SMOOT. I do not know that he said it. I could not say whether he did or did not.

Mr. TAYLER. The Journal of Discourses is published by the church?

Senator SMOOT. My opinion is if it is in the Journal of Discourses, more than likely he said it.

Mr. TAYLER. At least until 1890 the people of the church did live up to that principle, did they not?

Senator SMOOT. I could not say that they did—as broad as that.

Mr. TAYLER. That is, the latter part of it?

Senator SMOOT. I never heard it preached in that way in my life.

Mr. TAYLER. Senator, you testified respecting the endowment ceremony. Did you ever go through it more than once?

Senator SMOOT. But once.

Mr. TAYLER. That was before you were married?

Senator SMOOT. Before I was married.

Mr. TAYLER. You did not take any endowments when you were married?

Senator SMOOT. I did not.

Mr. TAYLER. But you were married in the temple?

Senator SMOOT. I was.

Mr. TAYLER. You say you have no recollection of the ceremony in detail?

Senator SMOOT. I could not give it in detail.

Mr. TAYLER. But I understand you to say positively that there was nothing at all in the ceremony about avenging the blood of the martyrs or prophets?

Senator SMOOT. I said so.

Mr. TAYLER. You heard the testimony of Mr. Dougall here?

Senator SMOOT. I did.

Mr. TAYLER. A witness who was put on the stand by you.

Senator SMOOT. I did.

Mr. TAYLER. You heard his statement that they were importuned to avenge the blood of the martyrs upon this generation?

Senator SMOOT. I heard him say so.

Mr. TAYLER. You say there is nothing at all like that in the ceremony?

Senator SMOOT. I do not recall it, nor do I believe that there is.

Mr. TAYLER. I understood you to say a few moments ago that there was nothing in the ceremony anywhere like that. You said that positively—that there was nothing in the ceremony about avenging the blood of the martyrs or avenging the martyrs.

Senator SMOOT. You never asked me that, Mr. Tayler.

Mr. TAYLER. I ask it now. Is there anything in the ceremony about avenging the blood of the martyrs or the martyrs?

Senator SMOOT. No; there is not.

Mr. TAYLER. Do you know Dr. Heber John Richards?

Senator SMOOT. I do.

Mr. TAYLER. Who is he?

Senator SMOOT. He is a doctor who lives in Provo now. I think he has returned from Europe.

Mr. TAYLER. What relation, if any, is he to Franklin S. Richards?

Senator SMOOT. I do not know that.

Mr. TAYLER. I did not know whether he was one of the Richards family which has been prominent in the history of Utah and the church. Is he?

Senator SMOOT. Yes, his father was in the church.

Mr. TAYLER. Is he a Mormon?

Mr. WORTHINGTON. Who; the father or Heber John?

Mr. TAYLER. Heber John. He said his father was in the church.

Senator SMOOT. I do not know whether he was ever cut off by the church or not, or whether he professes to be a member of the church.

Mr. TAYLER. You do not know whether he ever was a member of the church?

Senator SMOOT. I think he was.

Mr. TAYLER. You remember there was an investigation on the subject of the endowment ceremony and the covenants there, before Judge Anderson, of the United States district court, some fifteen years ago?

Senator SMOOT. I remember that at the time when there was a very bitter political fight there between the People's Party and the Liberal party there was an investigation before Judge Anderson for the purpose of keeping as many of the Mormon people as possible from voting or registering, and they took that means of doing it.

Mr. TAYLER. And they had a very extended examination on the subject of what the endowment ceremony was, at least so far as related to the oaths or covenants or obligations, as claimed.

Senator SMOOT. As I remember it.

Mr. TAYLER. If Dr. Heber John Richards, put on the stand by the applicants—that is to say, by those who claimed there was nothing improper in a good Mormon voting—when asked the question whether there was any covenant to avenge the blood of the prophets upon this nation—

Mr. WORTHINGTON. One moment. I object.

The CHAIRMAN. What is the question?

Mr. WORTHINGTON. Here is an attempt on the part of the counsel to get into this record something alleged to have been testified to by a witness in a case which was pending in a court in Utah twelve or fifteen years ago. It is a matter that bears upon the question of what is the obligation which a member of the Mormon Church takes when he goes through the endowment ceremonies.

The CHAIRMAN. What do you seek to show, Mr. Tayler?

Mr. TAYLER. The witness has said that there is nothing in the ceremony about avenging the blood of the prophets. I am going to refresh his memory about it—that there was something of that sort in the ceremony.

Mr. WORTHINGTON. I do not object in the slightest degree to the witness being pressed on that question.

Mr. TAYLER. It may be perfectly innocent and proper, and I think if I suggest to him what was testified to by a Mormon, at the instance of the Mormons, when they were undertaking to attack this claim that a good Mormon could not be a good citizen and an elector—that what the witness said was the foundation of the claim that there was a vow

of vengeance—will refresh his recollection and may furnish his explanation.

Mr. WORTHINGTON. I have no objection to your asking the witness whether such and such things will not explain what took place, but I do object, under the guise of a question, to having incorporated into the record in this case what counsel is informed in some way was testified to on the subject by some other witness in a case that occurred twelve or fifteen years ago.

The CHAIRMAN. I do not understand that you seek to show what the ceremony is by proving what somebody else said in some other case.

Mr. TAYLER. I suggest that you let me finish the question—

Mr. WORTHINGTON. What we object to is putting into this record what it is alleged in the pamphlet which counsel apparently holds somebody else said on some other occasion.

Mr. TAYLER. Let me get it in, and then it can go out if it is not proper. He said:

"In the fore part of the ceremony, in the anointing, they anointed my right arm that it might be strong to avenge the blood of the prophets; but that was all that was said."

Mr. WORTHINGTON. I have stated my objection. I should like to have a ruling upon it.

The CHAIRMAN. What is the objection?

Mr. WORTHINGTON. That counsel, in the guise of a question, is attempting to incorporate into this record what he alleges was testified to by somebody else in another proceeding, to which Mr. Smoot was not a party and had no chance to cross-examine the witness.

The CHAIRMAN. This is done, the Chair understands, merely for the purpose of refreshing the recollection of the Senator.

Mr. WORTHINGTON. Let me ask the Senator a question. Were you present, Senator, at the trial?

Senator SMOOT. No; I was not.

Mr. WORTHINGTON. You did not hear it?

Senator SMOOT. No; I did not.

Mr. WORTHINGTON. Then we object to refreshing the witness's recollection by something that he never heard of until it was put to him here. Of course, if a man has testified on a former occasion, or written anything, or made a memorandum of the matter, the statement may be laid before him for the purpose of refreshing his recollection by showing that at that time he knew something which he has forgotten since. But I submit that that can not be done by bringing before his mind something that it is alleged somebody else said on some other occasion when he was not present.

Mr. TAYLER. You can refresh a man's recollection on cross-examination in any way you can. You can refresh your own witness's recollection in certain very narrowly-defined ways. But I think that this will refresh the Senator's recollection fairly.

Mr. WORTHINGTON. Then I think he should be asked whether his recollection can be refreshed by being informed that somebody else testified fifteen years ago, in another judicial proceeding, that something of the kind happened—a proceeding of which he never heard until now.

The CHAIRMAN. Why not ask the Senator the direct question if any ceremony of that kind was performed?

Mr. WORTHINGTON. Yes; I have no objection to that.

Mr. TAYLER. If the Chairman thinks that that is the proper course—

The CHAIRMAN. It will serve to refresh his memory, possibly.

Mr. TAYLER. Does the question I have asked, Senator, refresh your memory?

Senator SMOOT. No, Mr. Tayler; it does not.

Mr. TAYLER. Then you have no recollection of anything of the sort, said to have been testified to as having occurred in connection with anointing the arm during the early part of the ceremony?

Senator SMOOT. No, sir; I do not.

Mr. TAYLER. Did any such thing occur at that point?

Senator SMOOT. Not as I remember.

Mr. TAYLER. Is it a mere case of blankness of memory? Is that all you can say about this business?

Senator SMOOT. I do not know Mr. Tayler; I can not call it to mind in any way.

The CHAIRMAN. Is that all, Mr. Tayler?

Mr. TAYLER. Yes.

The CHAIRMAN. Let me ask a question, because I am sure, Senator, you want to be understood. How long did it take to perform this ceremony?

Senator SMOOT. My judgment would be from the beginning to the end about three or four hours.

The CHAIRMAN. Were others present?

Senator SMOOT. When I went through?

The CHAIRMAN. Yes.

Senator SMOOT. Yes.

The CHAIRMAN. How many?

Senator SMOOT. Thirty or forty I should think; may be not so many.

The CHAIRMAN. Will you state that ceremony?

Senator SMOOT. I could not do it.

The CHAIRMAN. State what you are able to recall?

Senator SMOOT. I would very much prefer not to, Mr. Chairman.

The CHAIRMAN. Why not?

Senator SMOOT. For conscientious reasons. I want to say this, Mr. Chairman—

The CHAIRMAN. Let me inquire—

Senator FORAKER. Let the witness answer.

The CHAIRMAN. Certainly; the Senator shall have ample opportunity.

Senator FORAKER. He is answering now, and I should like to have the benefit of his answer at this point.

Senator SMOOT. I have conscientious reasons for it. I made a vow, not an oath, with my God, not with any man, not with the president of the church or with a living soul; but I did make a vow that I would keep those endowment ceremonies sacred and not reveal them to anybody, and I have kept that all my life, and if I went out of the church to-morrow and remained out of the church until I was gray-headed I would never feel that it was my duty, nor would I divulge what little even I remember of them.

The CHAIRMAN. Is that the whole of your answer? You can, then, at this time recall some portions of the ceremony?

Senator SMOOT. Very little of it.

The CHAIRMAN. I say you can recall some portion of it.

Senator SMOOT. I could not recall it so as to be accurate, Mr. Chairman.

The CHAIRMAN. But I understand you to say that you decline to state that portion of it which you can recall?

Senator SMOOT. With all due deference and respect to the committee, I would prefer not to.

The CHAIRMAN. That you entered into an obligation, I understand you to say, not an oath, but a promise, with the Lord, not to reveal these things?

Senator SMOOT. I did.

The CHAIRMAN. Was there any penalty attached in the obligation for its violation?

Senator SMOOT. I prefer not to say anything further, Mr. Chairman?

The CHAIRMAN. Do you remember whether there was or not.

Senator SMOOT. I prefer not to say anything further.

The CHAIRMAN. Do you know why the oath of secrecy or the obligation of secrecy was imposed? What was there in the ceremony that makes secrecy a necessity?

Senator SMOOT. It is a purely religious ordinance, and refers absolutely to man's hereafter, and it has nothing whatever to do with anything other than man to his God; and I suppose that it is an ordinance in our church, and the rule is that it be not revealed.

The CHAIRMAN. Were there any signs, passwords, or grips?

Senator SMOOT. I prefer, Mr. Chairman, to say nothing about it.

The CHAIRMAN. I will press it, of course. You decline to state any of the ceremony?

Senator SMOOT. Yes, sir.

The CHAIRMAN. And for the reasons you have stated?

Senator SMOOT. And for the reasons I have stated.

The CHAIRMAN. Do you belong to any other organization in the church except the apostles?

Senator SMOOT. That is all.

The CHAIRMAN. You are a member of the Melchizedek priesthood?

Senator SMOOT. I took that many years before I was an apostle. I have stated, Mr. Chairman, that the Melchizedek priesthood is the same that an elder holds, and that priesthood was given to me when I was ordained an elder, and after that I was set apart as a seventy, when I went upon my mission. The apostle does not hold any more priesthood than the elder does—not one bit.

The CHAIRMAN. Is that a secret order?

Senator SMOOT. Oh, no. Ordination is done in public meetings.

Senator OVERMAN. How much money is collected each year by the church in the way of tithes; what is the total sum?

Senator SMOOT. I could not say. I do not know.

Senator OVERMAN. Have you any idea?

Senator SMOOT. I would not want to give a guess at it, and it would be a mere guess.

Senator OVERMAN. Do you collect as much as a million dollars?

Senator SMOOT. I have understood that some years it was about that and some years under.

Senator OVERMAN. Say it is a million. How is it invested?

Senator SMOOT. Of course I know little about that. There is about a hundred and forty thousand dollars of it that goes to the educational institutions. I am only telling you just what I have heard indi-

rectly. There is about a hundred thousand dollars of it that goes for the feeding of the poor, other than what they collect as fast offerings in the wards. Then there is a great deal of it that goes for the payment of missionaries' fares returning home. They pay their own fare and expenses while upon a mission, but if they serve a mission two years, a faithful mission, and receive honorable release, their fare is paid home.

Senator OVERMAN. What I wish to get at is this: Is any of it invested in industrial and commercial institutions?

Senator SMOOT. The church has some of those, but the church is in debt, Mr. Senator. They issued bonds, you know, and I think they have outstanding bonds to the extent of about a million dollars, with some two hundred thousand or something, as I remember it—

Senator OVERMAN. Has the church stock in banks?

Senator SMOOT. They have very little.

Senator OVERMAN. In railroads?

Senator SMOOT. I do not know of any that they have in railroads.

Senator OVERMAN. In sugar refineries?

Senator SMOOT. They have in sugar factories.

Senator OVERMAN. This store is owned by the church?

Senator SMOOT. Oh, no; not 7 per cent of it. Mr. Senator, of the Z. C. M. I. not 7 per cent is owned by the church. I think there is 40 per cent of the stock of the Z. C. M. I. owned by non-Mormons.

Senator OVERMAN. How much? Forty per cent, did you say?

Senator SMOOT. I think that is the last estimate I heard, or a little over that.

Senator HOPKINS. Suppose, Senator, 60 or 75 per cent were owned by the church. Would it make any practical difference in the issues before us?

Senator SMOOT. I own stock in it.

Mr. WORTHINGTON. That question was not addressed to the witness.

Senator HOPKINS. I made the suggestion to my colleagues on the committee.

Senator OVERMAN. To me?

Senator HOPKINS. Yes.

Senator OVERMAN. It might be very interesting as showing the power of the church and what it does in Utah, we think, outside of Mr. Smoot.

Senator FORAKER. The committee has not gone beyond Smoot's relation to the matter!

Senator OVERMAN. The investigation has gone very far into what the church is doing in Utah. I wanted it for my own information, in order that I might know what power the church has in the way of owning commercial industries, and as to the independence of the people.

Senator SMOOT. I assure you there are many Senators of the United States who own a great many times more money than the church does.

Senator OVERMAN. I want to find out what influence the church has. In fact, I have a letter from out there, and I am inquiring for my own information.

Senator SMOOT. I will answer any question.

Senator OVERMAN. I have a letter from out there, suggesting outside of Mr. Smoot that the power of the church there, in commercial and industrial institutions, is such that a man outside of the church has no independence whatever. Now, I want to know whether that is the fact, for my own information, and not as affecting Senator Smoot.

Mr. VAN COTT. Now will you have the question read?

Senator SMOOT. It is not true, Senator. I was just looking over, to-day, some of the leading institutions of Utah, and as my thought goes back now to the business concerns of our capital city, Salt Lake, it seems to me that the Mormon people there are fast going out of all kinds of business. You can take the wholesale grocery business. You can take the great retail grocery stores, and, outside of the Z. C. M. I., there is not one Mormon store that amounts to much. Take the banks. Outside of one or two banks, of the thirteen banks there, they are all gentile; that is, the gentiles control them. The largest bank there, Mr. McCornick's bank, and the second one, Wells, Fargo & Co., are gentile institutions. Then, I suppose, comes the Deseret National Bank, which is not in any manner a church institution. There are Mormons and gentiles on the board of directors, and I am one of the directors of that bank. It is not a Mormon institution by any manner of means. Then take the wagon and machinery business. There is Studebaker's, with a mammoth concern; there is the Utah Implement Company, a great big concern. It is true the Mormons have the control of the Cooperative Wagon and Machine Company, but Banker McCornick is a director in that institution there, and a good many others, too.

Senator OVERMAN. I want to know whether the church has a majority of the stock in these institutions so as to control them.

Senator SMOOT. I do not believe they have one cent in the Deseret National Bank, and I do not think the church has bank stock to the amount of \$20,000; no, I do not think it is \$15,000 in all the banks in the State of Utah.

Senator BAILEY. Senator Smoot, you made one answer that I think you would want to revise on reflection. In reply to a question by Senator Overman as to the extent that the church is interested in these industrial enterprises you said that it did not own as much money as many United States Senators have.

Senator SMOOT. Let me—

Senator BAILEY. That implies, I think, rather a reflection. The charge here, in its widest scope, is that the Mormon Church controls the politics and industries of Utah. The ownership of the Mormon Church in these various industries might be entirely pertinent to an inquiry of that kind. But there is no charge that any Senator is controlling either the politics or the industries or the religion of a State. I hardly think that was a very apt reply.

Senator SMOOT. Mr. Chairman, I wish it distinctly understood that I had no intention whatever of casting a shadow of a doubt on a single Senator.

Senator BAILEY. I am not one of the Senators who would take any offense at that, and I think some of them are a little richer than is necessary.

Senator SMOOT. I shall ask then that that part of the answer be stricken out.

The CHAIRMAN. If there be no objection, that will be done.

Senator OVERMAN. Inasmuch as my colleague has intervened, I will ask you this question: Have not these questions been asked other witnesses—I mean the same questions that I have been asking you?

Senator SMOOT. I would be only too pleased to answer any questions you might possibly ask.

Senator OVERMAN. Possibly if the Senator from Illinois had attended oftener, he would have seen that these questions have gone in.

Senator HOPKINS. I have attended often enough to keep track of the legitimate issues before the committee.

Mr. WORTHINGTON. You could do that without coming very often.

The CHAIRMAN. In your church economy is there any method by which the president can be deposed?

Senator SMOOT. Yes; there is.

The CHAIRMAN. What?

Senator SMOOT. If he commits any unchristianlike act, or in any way, shape, or form does anything that would unfit him for that place, he can be tried just the same as any member of the church.

The CHAIRMAN. And if found guilty?

Senator SMOOT. And if found guilty, he can be removed from the church.

The CHAIRMAN. And from his presidency?

Senator SMOOT. And from his presidency.

The CHAIRMAN. You heard the testimony here, I believe, of Joseph F. Smith?

Senator SMOOT. I did.

The CHAIRMAN. In which he testified that he was living in defiance of the law of the land?

Senator SMOOT. I did.

The CHAIRMAN. Did you also hear him state that he was living contrary to the divine law?

Senator SMOOT. I heard him testify, and make his qualifications.

The CHAIRMAN. That he is living in defiance of the divine command. Has the church proceeded against him for the violation of these laws?

Senator SMOOT. They have not.

The CHAIRMAN. No steps have been taken to try him for the offense of polygamous cohabitation?

Senator SMOOT. No, sir.

The CHAIRMAN. I understood you to say this morning that it is the province of the apostles to counsel and advise the president?

Senator SMOOT. When asked by him.

The CHAIRMAN. Only when requested?

Senator SMOOT. Yes.

The CHAIRMAN. You are not, then, at liberty to advise him unless requested?

Senator SMOOT. I do not think he would object to it at all if I did.

The CHAIRMAN. Are you at liberty to advise him unless requested?

Senator SMOOT. I do not think President Smith would object if I did. I do not know that I have any special right to do it, but I do not think he would object to it.

The CHAIRMAN. I think my question was very plain. You have the right to advise him, even if he does not request it?

Senator SMOOT. That is a question which it is hard to answer yes or no, and I do not want to—

The CHAIRMAN. After you heard President Smith testify here that he was living in violation of the laws of the State and of the law of God did you see him in the committee room and elsewhere?

Senator SMOOT. I did.

The CHAIRMAN. How long was he here?

Senator SMOOT. Here in Washington, do you mean?

The CHAIRMAN. Yes. I am not particular about it—two or three days?

Senator SMOOT. Two or three days.

The CHAIRMAN. You saw him frequently?

Senator SMOOT. Not frequently. I saw him, though.

The CHAIRMAN. Did you make any protest to him about his manner of living?

Senator SMOOT. I did not.

The CHAIRMAN. You have visited Utah since?

Senator SMOOT. I have.

The CHAIRMAN. You have seen him at Salt Lake since?

Senator SMOOT. I have.

The CHAIRMAN. Have you protested against his living in polygamous cohabitation?

Senator SMOOT. I have not.

The CHAIRMAN. Have you in any way sought to bring him to trial for those offenses?

Senator SMOOT. I have not.

The CHAIRMAN. Do you intend to?

Senator SMOOT. I do not.

The CHAIRMAN. Do you remember how many children he said had been born to him since 1890?

Senator SMOOT. I think he said eleven.

The CHAIRMAN. And by all of his five wives?

Senator SMOOT. That I am not positive of.

The CHAIRMAN. Now, with the full knowledge of these facts, testified to by him, you sustained him in October last?

Senator SMOOT. I did.

If that is all you desire to ask, Mr. Chairman, I should like to say this: The manifesto as it was voted upon by the people had no reference to unlawful cohabitation. Two years after that there was an interpretation put upon it by President Woodruff, and it was his advice and counsel to the people to adhere to that interpretation, stating that he was going to do it, and he advised all of the other people to do it.

The question of unlawful cohabitation has never been presented and sustained by the people and voted upon at a general conference, and I take it for granted that perhaps some of the members of the church have felt that it was not binding upon them for that reason.

But, Mr. Chairman, there is another reason that I stated in my testimony the first day that has a great deal of bearing upon this subject, and it is this: That after the manifesto was issued, from that time until statehood, and from statehood until this hearing, there was a disposition among all classes of people there to tolerate the old conditions, thinking that that was the best and the easiest and the quickest way to have that condition solved, and I believe to-day that it will be solved by the people of Utah just as quick as death will remove them.

The CHAIRMAN. You not only did not reprimand President Smith for his conduct, but you sustained him in October last in a public assembly?

Senator SMOOT. When he was presented to be voted upon as president of the church I voted for him as such.

The CHAIRMAN. Have you indicated to him directly or indirectly that his conduct is displeasing to you?

Senator SMOOT. I have not.

The CHAIRMAN. Have you resigned your position as an apostle?

Senator SMOOT. I have not.

The CHAIRMAN. Have you severed your connection with the Mormon Church?

Senator SMOOT. I have not.

The CHAIRMAN. And you intend to retain your relationship and your apostolic position and sustain the president in his crimes?

Mr. WORTHINGTON. I object to that—that he intends to sustain the president in his crimes.

The CHAIRMAN. I will modify the question. I will ask the witness whether he intended to sustain Mr. Smith in the commission of this crime?

Senator SMOOT. I do not sustain any man in the commission of crime.

The CHAIRMAN. You sustained him in living in polygamous cohabitation?

Senator SMOOT. I have not said that.

The CHAIRMAN. Did you not sustain him in October last?

Senator SMOOT. I sustained him as president of the church.

The CHAIRMAN. And you have made no protest to him personally?

Senator SMOOT. It is not my place as an officer of the law nor within my place as a citizen of Provo. That is where I live. It is not my place to make any complaint to the officers of the law against President Joseph F. Smith.

The CHAIRMAN. Against the head of the church?

Senator SMOOT. Against Joseph F. Smith, or John Henry Smith; I do not care whether he is the head of the church or a man living there.

The CHAIRMAN. Then you think that your relation as an apostle does not impose upon you any duty to make complaint against the head of the church for any offense?

Senator SMOOT. I do not think it would be my duty.

The CHAIRMAN. What was the composition of the legislature which elected you. I mean as between the Mormons and the Gentiles?

Senator SMOOT. I should say, roughly speaking, there was a third of the Republican part of the legislature who were Gentiles and two-thirds Mormons.

The CHAIRMAN. How many members of the legislature were there?

Senator SMOOT. There were 63 in all, but they were not all Republicans.

The CHAIRMAN. I mean the total membership of your legislature, in the house and senate.

Senator SMOOT. Sixty-three; 18 in the senate and 45 in the house.

Senator OVERMAN. Some of the Democrats were Mormons?

Senator SMOOT. Oh, yes.

Senator OVERMAN. And they did not vote for you?

Senator SMOOT. Oh, not a Democrat.

Senator OVERMAN. The Democratic Mormons voted for the Democratic caucus nominee?

Senator SMOOT. Yes.

Mr. WORTHINGTON. Was their nominee a gentile or a Mormon? It was Governor Wells—

Senator SMOOT. Oh, no; the Democratic nominee was Joseph L. Rawlins, to succeed himself.

Senator OVERMAN. He was a non-Mormon?

Senator SMOOT. A non-Mormon.

Senator OVERMAN. A Gentile, and the Democratic Mormons voted for him?

Senator SMOOT. Every one of them.

The CHAIRMAN. I understand you to say that a polygamous post-master has been removed. At whose suggestion was it?

Senator SMOOT. I could not say as to that.

The CHAIRMAN. What was his name?

Senator SMOOT. John C. Graham, of Provo.

The CHAIRMAN. When was he removed?

Senator SMOOT. Four years and a half ago, maybe.

The CHAIRMAN. Do you know for what cause he was removed?

Senator SMOOT. Because he was a polygamist.

The CHAIRMAN. Who asked his removal?

Senator SMOOT. I can not say. I do not know.

The CHAIRMAN. I suppose the records of the office will show.

Senator BAILEY. Senator Smoot, do you know Mr. Eph Homer?

Senator SMOOT. I know him.

Senator BAILEY. Do you know where he resides?

Senator SMOOT. He resides in Provo.

Senator BAILEY. In Utah County?

Senator SMOOT. In Utah County.

Senator BAILEY. State of Utah?

Senator SMOOT. State of Utah.

Senator BAILEY. Do you know whether he holds any political position or not?

Senator SMOOT. He is county chairman of the Republican party of Utah County.

Senator BAILEY. Is Utah county also the county in which you reside?

Senator SMOOT. It is.

Senator BAILEY. And Mr. Homer is chairman of the Republican committee for your home county?

Senator SMOOT. For my home county.

Senator BAILEY. Have you ever seen a political circular issued and circulated through that county a day or two before the last election signed by Mr. Eph. Homer?

Senator SMOOT. I heard that he sent out one, Mr. Senator, but I knew nothing of it when it was printed, and I did not know of it until I returned from Salt Lake. It was a day or two, I think, before the election.

Senator BAILEY. Have you seen a copy of that circular since the election?

Senator SMOOT. I believe I had my attention called to it.

Senator BAILEY. Is it not a fact that this chairman of a county committee, a political organization, issued a circular attack upon a candidate for Congress from Utah based upon that candidate's testimony before this committee?

Senator SMOOT. I was very sorry to learn it, but I understood that he did.

Senator BAILEY. You regard that as wholly improper, do you not?

Senator SMOOT. Wholly improper, and if I had had anything to do with it I certainly would not have advised it or allowed it if I could have helped it.

Senator BAILEY. I assume that you would rebuke such a method as that?

Senator SMOOT. Certainly.

Senator BAILEY. During the canvass of your State did you yourself carry with you a copy of the testimony which had been taken in this proceeding?

Senator SMOOT. I did not.

Senator BAILEY. You never exhibited that testimony to anybody for the purpose of prejudicing any voter against any candidate who had given testimony before this committee?

Senator SMOOT. The only person I ever showed the testimony to, or the book to, was Wells McBride, I think, of Provo, and he asked me a question. I think it was based upon a statement that had been made by Mr. Roberts, although I am not sure as to that, in a speech at Lehi; something that was said about Mr. Powers, and he wanted to know what that testimony was, and I showed him just exactly what was in the testimony.

Senator BAILEY. Who was Mr. Powers?

Senator SMOOT. Mr. Powers was running for Congress.

Senator BAILEY. He was a nominee for Congress?

Senator SMOOT. He was a nominee for Congress.

Senator BAILEY. He was also a witness who had testified before this committee?

Senator SMOOT. He was.

Senator BAILEY. You only pointed out the testimony of this witness, a candidate, when you were specially interrogated about it?

Senator SMOOT. When they asked me. Some question came up, and he said, "Have you the testimony to show," and I showed him that testimony, as I told you.

Senator BAILEY. And you showed it to only one man?

Senator SMOOT. All that I can call to mind now.

Senator BAILEY. And showed it to him at his request?

Senator SMOOT. Yes; he asked me if I could. We were out in front of the bank there, talking; and he asked me if a certain statement was true, and I told him that it was in the testimony and he could come in, and I showed him the testimony.

Senator BAILEY. You would not regard it as a proper thing to use the testimony of a witness, delivered before this committee under the committee's subpoena, as an argument against him, while the committee was still pursuing its investigation, would you?

Senator SMOOT. I would not.

Senator BAILEY. That is all I want to ask, Mr. Chairman.

Mr. WORTHINGTON. Mr. Tayler, are you through?

Mr. TAYLER. I have a question I wish to ask.

The CHAIRMAN. It is now 12 o'clock, and we will have to take a recess until half past 1.

Thereupon (at 12 o'clock meridian) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The Committee reassembled at the expiration of the recess.

The CHAIRMAN. Senator, will you resume the stand?

TESTIMONY OF REED SMOOT—Resumed.

REED SMOOT, having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. Mr. Tayler, have you had an opportunity to look at this sermon?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. Do you care to put that in with this affidavit?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. Without subpoenaing the witness?

Mr. TAYLER. Yes; that is all right.

Mr. WORTHINGTON. Very well. I will do that later.

The CHAIRMAN. Senator, I want to ask one or two questions, that I may be more thoroughly informed. Are you at liberty to resign your apostolate?

Senator SMOOT. I am.

The CHAIRMAN. At any time?

Senator SMOOT. At any time.

The CHAIRMAN. You are not under any restraint from any authority by which you are not, at any time? You can at any time resign?

Senator SMOOT. At any time.

The CHAIRMAN. And is there anything in the rules or practice of your church which would debar you from severing your connection with the organization?

Senator SMOOT. None whatever.

The CHAIRMAN. With the church itself?

Senator SMOOT. None whatever.

The CHAIRMAN. You speak of the time when you took the endowments. I am not clear whether you stated if you were present at other times.

Senator SMOOT. I never have been, Mr. Chairman.

The CHAIRMAN. You have never been present at any time since?

Senator SMOOT. Never.

The CHAIRMAN. And you have not officiated in any way in conferring the endowments at any time?

Senator SMOOT. I never officiated in any way.

The CHAIRMAN. I think you said to the Committee that you were surprised when you heard the president of the church testify as he testified before this committee?

Senator SMOOT. As to the number of children that he had.

The CHAIRMAN. Yes. You were surprised?

Senator SMOOT. I was surprised as to the number of children that he had since the manifesto.

The CHAIRMAN. Then you were, of course, surprised to learn that he was living in polygamous cohabitation?

Senator SMOOT. Well, I did not know that he was, and I had no reason to believe that he was.

The CHAIRMAN. Of course. Then you were surprised when he testified that he had had 11 children since the manifesto?

Senator SMOOT. Yes, sir.

The CHAIRMAN. And that surprise still continues, I suppose?

Senator SMOOT. No, sir; I know it now; or I think I know it, from what he—

The CHAIRMAN. From what he testified?

Senator SMOOT. From what he testified to.

The CHAIRMAN. You regard him, I suppose, a truthful man?

Senator SMOOT. I do.

The CHAIRMAN. Did you make known your surprise to him?

Senator SMOOT. I did not.

The CHAIRMAN. Neither then nor at any time since, have you?

Senator SMOOT. Neither then nor at any time since.

The CHAIRMAN. Do you know a man by the name of A. L. Morris, who at one time was of the firm of Morris & West, in Salt Lake City?

Senator SMOOT. I can not place him, Mr. Chairman.

The CHAIRMAN. Maybe I can refresh your recollection. Did you at any time know of a firm by the name of Morris & West, stock brokers?

Senator SMOOT. I do not call it to mind.

The CHAIRMAN. Senator, have you at any time lived in Salt Lake City?

Senator SMOOT. I was born in Salt Lake City in 1862, and lived there until I was 10 years old.

The CHAIRMAN. Have you since you were married?

Senator SMOOT. I have not.

The CHAIRMAN. You have not lived there since you have married?

Senator SMOOT. I have not.

The CHAIRMAN. Have you had any residence there for any length of time?

Senator SMOOT. I have not. I have stopped there with my wife's mother over night on a number of occasions.

The CHAIRMAN. Oh, yes. And where did she live at that time?

Senator SMOOT. 216 East First South street.

The CHAIRMAN. I wanted to inquire about it. I think you said before the October conference there was a meeting of the officials of the church. Did I understand you correctly—that the president and apostles had a meeting and that there was some discussion about some matters?

Mr. WORTHINGTON. Prior to the 1904 conference, you ^{are} mean.

The CHAIRMAN. Yes; some preliminary meeting of the officials.

Senator SMOOT. Why, we had meetings right along, Mr. Chairman. I can not call to mind what you have reference to.

The CHAIRMAN. I had reference to your testimony in chief in which you said there was a meeting of the president and the apostles a few days before the conference.

Senator SMOOT. At the time Mr. Penrose was nominated?

The CHAIRMAN. Possibly.

Senator SMOOT. Yes; I remember it.

The CHAIRMAN. What I want to inquire about, is whether at that time you made known to Mr. Smith and those present your surprise to learn that the president was living in polygamous cohabitation.

Senator SMOOT. I did not.

The CHAIRMAN. You did not say anything to him about it? Was anything said about it by anyone?

Senator SMOOT. Not that I remember.

The CHAIRMAN. Mr. Penrose was proposed, as I understood you to say, at that meeting—

Senator SMOOT. By the president of the church.

The CHAIRMAN. To fill the vacancy in the apostolate?

Senator SMOOT. Yes.

The CHAIRMAN. Was Mr. Penrose a polygamist at that time?

Senator SMOOT. He was a polygamist. He had been married before the manifesto.

The CHAIRMAN. Yes; I understand.

Senator SMOOT. But of course, as I said, you know, Senator, at the

time I did not know it. But it would have made no difference to me, as I said before.

The CHAIRMAN. That is as I understand; but at the time you did not know he was a polygamist?

Senator SMOOT. I knew he had been a polygamist, and I knew that one of his wives died. I never knew anything about his family, and I thought he had had two wives and, one dying, he only had the one; but it proved that he had, before the manifesto, three wives instead of two.

The CHAIRMAN. Do you know what his general reputation was at that time in that regard?

Senator SMOOT. I never heard it mentioned.

The CHAIRMAN. It never came to your knowledge what his reputation was in that particular?

Senator SMOOT. I never heard it mentioned, Mr. Chairman.

The CHAIRMAN. I understood you to say you would have voted for him had you known him to be a polygamist.

Senator SMOOT. Under the circumstances, that he was married before the manifesto.

The CHAIRMAN. Then the fact, if it were true, that he was living in polygamous cohabitation would have made no difference with your vote?

Senator SMOOT. Well, I knew nothing as to that, of course.

The CHAIRMAN. Suppose it to be true that he was, and you had known he was, living in polygamous cohabitation since the manifesto; you would have still supported him?

Senator SMOOT. In a church position.

The CHAIRMAN. I beg your pardon.

Senator SMOOT. In a church position.

The CHAIRMAN. Well, this was a church position.

Senator SMOOT. This was a church position.

The CHAIRMAN. So that would not have deterred you from voting for him?

Senator SMOOT. I hardly think so.

The CHAIRMAN. I understood you to say, in your direct examination, I believe, but I want to be clear about it—

Senator SMOOT. Yes.

The CHAIRMAN. That there is some investigation being conducted now in regard to Mr. Cowley?

Senator SMOOT. I have understood so.

The CHAIRMAN. Did I understand you correctly?

Senator SMOOT. I say I understand so.

The CHAIRMAN. Do you know by whom that investigation is being conducted?

Senator SMOOT. As I understood it, it was to be investigated by President Lyman. I am not, of course, positive of that, but that is as I understand it.

The CHAIRMAN. That was as you understood it?

Senator SMOOT. Yes.

The CHAIRMAN. Do you know whether the investigation has been entered upon?

Senator SMOOT. Well, Mr. Chairman, I say that, as I understand it, it has.

The CHAIRMAN. And have you any knowledge about it, as a matter of fact?

Senator SMOOT. Only from what I have heard people say.

The CHAIRMAN. Have you made any inquiry to ascertain whether Mr. Cowley is now being investigated and what steps are being taken?

Senator SMOOT. Not since I left home.

The CHAIRMAN. I understand you, Senator, to state that you do not teach polygamy?

Senator SMOOT. I do not.

The CHAIRMAN. Or advise it? You teach and preach sometimes?

Senator SMOOT. I do.

The CHAIRMAN. Do you preach against polygamy?

Senator SMOOT. I never have in a public gathering of people.

The CHAIRMAN. Why do you not?

Senator SMOOT. Well, Mr. Chairman, I do not know why I should.

The CHAIRMAN. You do not know why you should?

Senator SMOOT. Or why I should not. It is not a tenet now of the faith and—that is, what I mean to say is, it has been suspended, and I think it would not be proper for me to bring it up, because it is not preached, for or against.

The CHAIRMAN. So, while it is literally true that you do not teach or preach polygamy, you have not taught or preached against it?

Senator SMOOT. No; I have not in a general——

The CHAIRMAN. Senator, in your teaching and preaching have you at any time denounced polygamous cohabitation?

Senator SMOOT. I have not.

The CHAIRMAN. And do I understand you to say you do not reprobate that practice and preach against it publicly?

Senator SMOOT. I have not.

The CHAIRMAN. There is some uncertainty about the manifesto, as to its meaning, I believe; that is, whether it prohibits polygamous cohabitation or simply the taking of plural wives.

Senator SMOOT. Well, the wording of the manifesto prohibits plural marriages.

The CHAIRMAN. There is some doubt among the authorities as to the point whether it prohibits polygamous cohabitation.

Senator SMOOT. I can not speak for the authorities. I have heard it spoken of among the people.

The CHAIRMAN. The people then have doubt about that?

Senator SMOOT. Some of them, I think.

The CHAIRMAN. To whom was this so-called revelation made?

Senator SMOOT. You mean the manifesto?

The CHAIRMAN. Yes.

Senator SMOOT. To Wilford Woodruff, as I understand it.

The CHAIRMAN. Do you know how he interpreted it?

Senator SMOOT. He interpreted it that it meant unlawful cohabitation as well as polygamous marriages.

The CHAIRMAN. And at the time he received this revelation he was president of the church?

Senator SMOOT. He was.

The CHAIRMAN. Is it your understanding that he abstained from polygamous cohabitation after that?

Senator SMOOT. It has been so stated by the people there.

The CHAIRMAN. Well, is that your understanding?

Senator SMOOT. I understand it so.

The CHAIRMAN. He was the president of the church at the time this revelation was made to him, I suppose?

Senator SMOOT. That is as I stated.

The CHAIRMAN. I will ask you this: Was Mr. Woodruff, at the time this revelation was received, reputed to be a polygamist?

Senator SMOOT. I think he was.

The CHAIRMAN. These revelations from God—take, for instance, the manifesto—are they made to the head of the church usually?

Senator SMOOT. I think the manifesto was an inspiration from the Lord to Wilford Woodruff, the head of the church.

The CHAIRMAN. Are these revelations made as the result of an invocation or an appeal from the mortal to be advised in relation to a certain course of conduct, or do they come as a surprise?

Senator SMOOT. I understand that this inspiration as to the manifesto came to President Woodruff by his pleading to the Lord for light. That is what his statement says, I think.

The CHAIRMAN. Do you know whether the president of the church has appealed to the Lord for another manifesto to interpret that, so that there would be no doubt about it?

Senator SMOOT. I do not.

The CHAIRMAN. The Lord might be appealed to, I suppose, to clear that question up, could he not, Senator, from a proper source?

Senator SMOOT. Oh, I guess anybody could appeal to the Lord.

The CHAIRMAN. No such appeal has been made that you know of. I think that is all.

Mr. WORTHINGTON. Mr. Tayler, have you anything further to ask Senator Smoot?

Mr. TAYLER. Yes; just a question.

Senator, you said that you declined to reveal what occurred in the endowment proceedings because you had taken an obligation or made a vow or given a promise to God not to do so?

Senator SMOOT. I did.

Mr. TAYLER. How do you know that you made it to God?

Senator SMOOT. Because that is the impression I had at the time, that I made that vow with my heavenly Father.

Mr. TAYLER. I am not dealing with this in any even suggestively sacreligious way, Senator, but I want to get the process, mental or moral, by which this thing occurred. You do not understand, do you, that God revealed himself to you at the time that you took this obligation?

Senator SMOOT. No; I do not.

Mr. TAYLER. You do not know that God required that obligation, do you?

Senator SMOOT. I do not.

Mr. TAYLER. Or that He called for it in any way, either upon you or anybody else?

Senator SMOOT. He may have by instituting the endowment through His prophet, Joseph Smith, jr.

Mr. TAYLER. When did God institute these endowments, Senator?

Senator SMOOT. I understood it was through the prophet, Joseph Smith, jr.

Mr. TAYLER. But have we not got all the law of the church bound up in the covers of these books?

Senator SMOOT. As to the doctrine, perhaps so.

Mr. TAYLER. Then, are there other revelations, not promulgated?

Senator SMOOT. Not that I know of, Mr. Tayler.

Mr. TAYLER. Well, what do you say about this endowment ceremony? Do you understand that that proceeded from God?

Senator SMOOT. I have heard it so taught.

Mr. TAYLER. So taught?

Senator SMOOT. Yes.

Mr. TAYLER. Has it been approved by the church in conference?

Senator SMOOT. That I can not say.

Mr. TAYLER. Do you understand that it ever was?

Senator SMOOT. Well, they were started in the early days of the church. I do not know, Mr. Tayler.

Mr. TAYLER. Is it not your understanding, Senator, that the obligation of secrecy, by whatever name you describe it, is a mere voluntary offer made by the person who takes it?

Senator SMOOT. I did not so understand it. I understood, as I stated, that it was an obligation that I made to my Heavenly Father to keep the endowment secret.

Mr. TAYLER. Exactly. Now, what I want to be certain about, Senator, is whether or how the duty was laid upon anybody to make any such obligation to God.

Senator SMOOT. I think the person takes the obligation upon himself.

Mr. TAYLER. Yes; exactly. But whether God demanded that or not is quite important.

Senator SMOOT. He never demanded it of me.

Mr. TAYLER. He had not demanded it of you. If the endowment ceremony proceeded from God, did it proceed from a direct revelation from Him or because one of his mouthpieces ordered that method?

Senator SMOOT. I can not say whether it was a direct revelation or not.

Mr. TAYLER. So that when you say you made that obligation with God it is, after all, only that it was in your mind that you were promising God you would not reveal it?

Senator SMOOT. It was in my mind and I believed that that was proper to do, and I promised.

Mr. TAYLER. Why did you believe God would be unwilling that you should reveal that?

Senator SMOOT. I thought that was an entirely religious ordinance, and I thought that was the mode and the rule and the law of the church and accepted it as such.

Mr. TAYLER. Did you fear persecution if it should be known?

Senator SMOOT. Oh, no; not at all.

Mr. TAYLER. Then what reason would there be for secrecy in a religious vow of worship to Almighty God if there was no fear of persecution?

Senator SMOOT. It is an ordinance that deals entirely with things spiritual and hereafter.

Mr. TAYLER. Exactly.

Senator SMOOT. And I do not know that it would be necessary to reveal it, nor wise, nor prudent.

Mr. TAYLER. What harm could result from revealing the method of religion in times when people were not persecuted for their beliefs?

Senator SMOOT. I do not think there would be any special harm, Mr. Tayler, in revealing it, but I think it is an ordinance of the church, as I have stated, that they believe should be kept sacred and secret.

Mr. TAYLER. So that, having taken the obligation with God, you would not reveal it, would you?

Senator SMOOT. I do not feel like it would be proper for me to do so.

Mr. TAYLER. Well, would you reveal it?

Senator SMOOT. No; I do not think I would.

Mr. TAYLER. Nothing could induce you to reveal that which, under the obligation you made to God, you said you would not reveal? Is that right?

Senator SMOOT. Not anything that I could think of now.

Mr. TAYLER. That is what I meant, of course. That is all.

The CHAIRMAN. Senator, I wish to know if you agree, as to the meaning of this manifesto, with the president of your church, who testified in 1891, when the question of church property was involved, at a hearing before Judge C. F. Loofbourov?

Mr. WORTHINGTON. What page are you reading from, Mr. Chairman?

The CHAIRMAN. Page 22, Mr. Worthington—Joseph Smith's testimony.

"Q. Do you understand that the manifesto applies to cohabitation of men and women in plural marriage where it had already existed?

"A. I can not say whether it does or not.

"Q. It does not in terms say so, does it?

"A. No; I think, however, the effect of it is so. I don't see how the effect of it can be otherwise."

Do you agree with the president of the church in that interpretation of it?

Senator SMOOT. I remember the president of the church making that interpretation of it, but I do not agree that every member of the church could be bound by that until it was presented to them as the manifesto was, and accepted by them. I believe that was his interpretation.

The CHAIRMAN. Then you do not agree with him in that interpretation?

Senator SMOOT. I can not tell what his interpretation may be.

The CHAIRMAN. He has stated what his interpretation is: "The effect of it is so. I don't see how the effect of it can be otherwise."

Senator SMOOT. That was his interpretation.

The CHAIRMAN. Do you agree with his interpretation?

Senator SMOOT. No; my interpretation is that it could not be binding upon the people until it was presented the same as the manifesto.

The CHAIRMAN. Is it a question of being presented by the terms of the manifesto itself?

Senator SMOOT. The manifesto itself, Mr. Chairman, does not state that it includes polygamous cohabitation.

The CHAIRMAN. Then you do not agree with Mr. Smith in his interpretation?

Senator SMOOT. Why, I can not do so.

The CHAIRMAN. Another thing: Mr. Woodruff—

Mr. WORTHINGTON. Might I remark there, Mr. Chairman, that Mr. Smith, when he gave that testimony, as I understand, was not president. Mr. Woodruff was then the president.

The CHAIRMAN. He was not president when he gave it?

Mr. WORTHINGTON. Not when he gave that testimony. He was a counselor then. He was not president. But Mr. Woodruff, who was president, testified, and his testimony, or what purports to be his testimony, appears on page 21.

The CHAIRMAN. It does not affect my question. I simply wanted to know of the Senator whether he agreed with that interpretation, and I understand he does not.

Mr. Woodruff, who received the manifesto, testified as follows:

"Q. Did you intend to confine this declaration [the manifesto] solely to the forming of new relations by entering new marriages?

"A. I don't know that I understand the question.

"Q. Did you intend to confine your declaration and advice to the church solely to the forming of new marriages, without reference to those that were existing—plural marriages?

"A. The intention of the proclamation was to obey the law myself—all the laws of the land—on that subject, and expecting the church would do the same."

Senator SMOOT. I remember that.

The CHAIRMAN. Do you agree with that?

Senator SMOOT. I agree with that as his interpretation.

The CHAIRMAN. Yes; is it yours?

Senator SMOOT. Not from the wording of the manifesto.

The CHAIRMAN. Well, either in the wording or the spirit, is that your interpretation?

Senator SMOOT. I do not know as to the spirit, I am sure, what he thought.

The CHAIRMAN. What do you think?

Senator SMOOT. I can not say. All I can say is this, judging from the rule of the church.

The CHAIRMAN. Then, independent of that, you have no construction to put upon this manifesto?

Senator SMOOT. Any further than just what the manifesto says itself.

The CHAIRMAN. From that you do not think it prohibits polygamous cohabitation, do you?

Senator SMOOT. It did not in the manifesto.

The CHAIRMAN. What is that?

Senator SMOOT. The manifesto did not.

The CHAIRMAN. And you so regard it to-day?

Senator SMOOT. Taking the manifesto itself, I regard it that way.

The CHAIRMAN. That is all.

Mr. TAYLER. Excuse me. I lost a memorandum, which I have found, and there is just one question I want to ask.

I think inquiry was made of you, Senator, about the filling of vacancies in the apostles?

Senator SMOOT. In the apostles' quorum?

Mr. TAYLER. In the quorum of twelve, yes. And how did you say that vacancy was filled?

Senator SMOOT. Merely by the nomination by the president of some member for that quorum and voted upon by the quorum.

Mr. TAYLER. Is it not a fact that apostles can fill that vacancy instead of the president?

Senator SMOOT. There never have been since I have been there.

Mr. TAYLER. I did not ask that. I am speaking about the power.

Senator SMOOT. Well, I do not so understand it.

Mr. TAYLER. Do you recall President Smith testifying with reference to this very thing. "They have the power if they choose to do it——?"

Mr. WORTHINGTON. What page is that, Mr. Tayler?

Mr. TAYLER. Page 92. [Reading:] "But I do not think they would do it"?

Senator SMOOT. Well, I have no knowledge as to whether they could or whether they could not. This I can testify to, that they have not done it while I have been there.

Mr. TAYLER. They never have. The president makes the nomination and the remaining apostles confirm, approve——

Senator SMOOT. Or disapprove.

Mr. TAYLER. Or disapprove it?

Senator SMOOT. Yes, sir.

Mr. TAYLER. But you are not prepared to say that the president is in error, or are you prepared to say he is right in saying that the remaining apostles themselves can fill a vacancy in their quorum?

Senator SMOOT. I do not think they can, because the practice has been different from that since I have been in the quorum.

Mr. TAYLER. Then you mean to say you think the president is mistaken when he says that?

Senator SMOOT. Well, for all I know he is. I would not want to say he was not, because all I know is that the practice is contrary to that.

Mr. TAYLER. This was the question of Senator Bailey, after one or two other sentences I do not need to read:

"It is a question of power. If the apostles chose to do so could they elect a man over the protest of the president?"

To which he replied:

"I presume they could; but I do not think they would.

"But they have the power?" asked Senator Bailey; and Mr. Smith answered:

"They have the power if they choose to do it; but I do not think they would do it."

Senator SMOOT. I do not know how it could be done, unless a solid vote of the quorum would be equal to the vote of the presidency, and then there would be no election.

Mr. WORTHINGTON. Is that all, Mr. Tayler?

Mr. TAYLER. Yes.

The CHAIRMAN. I am sorry, Senator, to trouble you, but I wanted to ask another question.

Is there any law in the State of Utah prohibiting polygamous cohabitation?

Senator SMOOT. There is.

The CHAIRMAN. There is such a law as that?

Senator SMOOT. There is.

The CHAIRMAN. Then the president of your church is violating the law of the State?

Senator SMOOT. He has so testified here.

The CHAIRMAN. And whether he is violating the divine law or not, under this manifesto, you have not made up your mind?

Senator SMOOT. He stated that he was, himself, under his interpretation.

The CHAIRMAN. I am asking about your own interpretation. You are not clear about that?

Senator SMOOT. No; I am not clear about that.

The CHAIRMAN. That is what I understood. That is all.

Mr. WORTHINGTON. Senator, in reply to a question by Mr. Tayler, after he had quoted what John Henry Smith says, you said, adopting his language, that you believed in obeying the law because it is strong. Did you mean just that—that you believed in obeying the law simply because you had to and could not help yourself?

Senator SMOOT. No; of course I obey the law because I think it is right.

Mr. WORTHINGTON. I knew you did not mean that.

Senator SMOOT. I perhaps answered quickly, as I do in some of my answers, without consideration.

Mr. WORTHINGTON. You do not always see the little shades of meaning that Brother Tayler uses.

In reference to this instrument that has been called the political manifesto, have you any knowledge, by reputation or otherwise, that anybody has ever asked consent to run for any office and been refused since that rule was adopted?

Senator SMOOT. I do not know of anyone.

Mr. WORTHINGTON. You were asked something by Senator Dubois, I have forgotten what the question was, but it was, as I understood it, an intimation that this rule would not apply to any official of the church who asked for leave, unless it was to go into politics. Did you so understand it?

Senator SMOOT. No; I understand that it applies to those officials to whom it should apply, no matter whether it is politics or business or anything that would take them away from their labors.

Mr. WORTHINGTON. Whether it is politics, business, or what it is?

Senator SMOOT. No matter what it is.

Mr. WORTHINGTON. Now, on this question of the authority of the church, do you not know it is true that on this very matter of polygamy members of the church have publicly and openly announced that they did not believe in the principle of polygamy?

Senator SMOOT. Yes; I know there have been members of the church who do it.

Mr. WORTHINGTON. Did you hear President Smith testify that they had said that to him?

Senator SMOOT. I did.

Mr. WORTHINGTON. Did you ever hear of anybody being disciplined or interfered with for that promulgation?

Senator SMOOT. I never have.

Mr. WORTHINGTON. I think you testified that when the missionaries are out in the performance of their duties they have the Doctrine and Covenants with them.

Senator SMOOT. Yes; I testified so.

Mr. WORTHINGTON. Do they not also have all the standard books of the church that they are supposed to have?

Senator SMOOT. They have them all.

Mr. WORTHINGTON. They have the Bible, the King James translation, the Doctrine and Covenants, the Book of Mormon, and the Pearl of Great Price?

Senator SMOOT. They do.

Mr. WORTHINGTON. The Book of Mormon contains a paragraph which prohibits polygamy, I believe?

Senator SMOOT. I so construe it.

Mr. WORTHINGTON. And the Bible has certain passages which relate to a man having more than one wife?

Senator SMOOT. Yes, sir.

Mr. WORTHINGTON. They have them all?

Senator SMOOT. They have them all.

Mr. WORTHINGTON. Now, in the ordinary performance of the work of a missionary in your church, does he hand the Doctrine and Covenants to people with whom he is talking, so that they have the book?

Senator SMOOT. They do not.

Mr. WORTHINGTON. And it is so with the other books, is it?

Senator SMOOT. Unless they ask to purchase them, or something like that.

Mr. WORTHINGTON. You do not take this volume of the Doctrine and Covenants, which contains general information about celestial marriage and polygamy, and distribute that around among the people whom you want to convert, do you?

Senator SMOOT. I do not think they do.

Mr. WORTHINGTON. I want to give you a chance, if you have made an error, to correct it, with reference to Joseph M. Tanner. I think you said that under President Smith he is the principal in command of the Sunday schools of the church. Is that true?

Senator SMOOT. Mr. Tayler asked me what position he held, as I remember, and I said he was general superintendent of Sunday schools; but I was mistaken in that. He is the second assistant general superintendent of Sunday schools.

Mr. WORTHINGTON. In reference to this printed pamphlet that has been put in the record here, of instructions which have been given to teachers in the schools of the church, let me ask you whether you have been present when any of the teachers have been lecturing to the children on the subjects, or any of them, contained in that pamphlet?

Senator SMOOT. Are you speaking of the religion classes?

Mr. WORTHINGTON. Yes.

Senator SMOOT. No; I never was present.

Mr. WORTHINGTON. Mr. Tayler read a few from the list of the persons whose biographical sketches are to be given to the children. I will take them up in their order, and ask you about them. The first one is President Smith. He happens to be the head of the church, does he?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The next one is John R. Winder. He is first councilor, is he not, to the president?

Senator SMOOT. He is the first councilor to the president.

Mr. WORTHINGTON. The next is Anthon H. Lund. He is the second councilor to the president?

Senator SMOOT. He is the second councilor to the president.

Mr. WORTHINGTON. The next is Francis M. Lyman, who is the president of the quorum of apostles?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The next is John Henry Smith. He is the senior apostle, next to Lyman, is he not?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The next in order is George Teasdale?

Senator SMOOT. Yes.

Mr. WORTHINGTON. And so of Grant and Taylor, Merrill and Cowley?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The next is Abraham O. Woodruff, who has died since the pamphlet was issued, and whose place was filled by Mr. Penrose?

Senator SMOOT. Yes.

Mr. WORTHINGTON. The next is Rudger Clawson?

Senator SMOOT. Yes.

Mr. WORTHINGTON. Then yourself?

Senator SMOOT. Yes.

Mr. WORTHINGTON. Then Hyrum M. Smith, who was a witness here?

Senator SMOOT. Yes.

Mr. WORTHINGTON. So that this book, instead of picking out the polygamists, takes the head officers of the church in the order of their official positions?

Senator SMOOT. I should think so from that.

Mr. WORTHINGTON. The next is Patriarch John Smith?

Senator SMOOT. Yes.

Mr. WORTHINGTON. We have all heard of John. He is the next in order in the general officers of the church. Then it takes up those who had been presidents of the church. It takes up George Q. Cannon, Brigham Young, and Lorenzo Snow. Who is Karl G. Maeser, who is mentioned next?

Senator SMOOT. He used to be the head of the church schools.

Mr. WORTHINGTON. Is he a polygamist or not?

Senator SMOOT. He was a polygamist.

Mr. WORTHINGTON. Is he living now?

Senator SMOOT. No; he is dead.

The CHAIRMAN. Who is the next?

Mr. WORTHINGTON. The next is Elder Franklin D. Richards, Elder George Goddard, Elder George Reynolds, Elder Joseph M. Tanner, Mrs. Zina D. Young—is that a woman's name?

Senator SMOOT. Yes.

Mr. WORTHINGTON. She was not a polygamist, I suppose?

Senator SMOOT. I do not know.

Mr. TAYLER. Ask if she was a polygamous wife.

Mr. VAN COTT. She was.

Mr. TAYLER. That is all we could expect her to be.

Mr. WORTHINGTON. Now, as to this matter of the Moses Thatcher case, Mr. Tayler called your attention to some extracts from that record. I will ask your attention to one or two which he overlooked. I will ask you whether or not, in accepting the decision of the high council, parts of which decision Mr. Tayler read, he did not accompany it with this statement:

“In accepting it as defined by the council I need violate none of the engagements heretofore entered into under the requirements of party

pledges respecting the political independence of the citizen who remains untrammelled as contemplated in the guarantees of the State constitution."

Did he not accept it with that qualification or statement of how he understood it?

Senator SMOOT. I think so.

Mr. TAYLER. What page are you reading from?

Mr. WORTHINGTON. Page 572.

And then did not the high council accept his acceptance in these words:

"We hereby accept the foregoing letter from Moses Thatcher and his indorsement of the decision of the high council * * * as a satisfactory compliance with that decision?"

Senator SMOOT. If you suggest it is that, of course it is so.

Mr. WORTHINGTON. So that the upshot of it was that Moses Thatcher maintained and the high council agreed that the rule did not in any degree interfere with the political independence of any member of the Mormon Church?

Senator SMOOT. I think I said so, Mr. Worthington.

Mr. WORTHINGTON. I knew you said so, but I wanted the record to show that you were right.

On the question of the word "supreme," as to which Mr. Tayler referred to Doctor Talmage going around, let me ask you, in order that I may see if I entirely understand what you intend, what would happen in this case? The manifesto, you say, was submitted to the people as it was written, and it does not, as you say, refer to polygamous cohabitation, but to new plural marriages. Suppose President Woodruff afterwards did not interpret it as you said, but, as was read by my friend, or as the passage from which he read shows, he undertook to expand it so as to forbid polygamous cohabitation with wives who were wives at the time of the manifesto. Let me suppose that you had been a polygamist, and had insisted, in accordance with your interpretation of the manifesto, on living in polygamous cohabitation. What could he have done? What is his power over you in that regard? You were violating the manifesto according to his view, and not violating it according to your own. Is there anything he could have done except to have charges preferred against you before your bishop?

Senator SMOOT. He could have preferred charges against me to my bishop.

Mr. WORTHINGTON. He could not have excommunicated you or dis-fellowshipped you!

Senator SMOOT. Not until I had a hearing.

Mr. WORTHINGTON. He would have had to make charges before your bishops' court!

Senator SMOOT. Yes.

Mr. WORTHINGTON. Suppose the bishop had taken his view and excommunicated you. What then?

Senator SMOOT. I could have appealed to the high council.

Mr. WORTHINGTON. Suppose the high council had confirmed the excommunication. Then what could you have done?

Senator SMOOT. I suppose I would have appealed to the president.

Mr. WORTHINGTON. Suppose the president had confirmed it. Then what could you do?

Senator SMOOT. I could have appealed then to the assembled priesthoods of the church.

Mr. WORTHINGTON. In the end it is the people of the church, and not the presidency, that is supreme in that respect?

Senator SMOOT. Yes; in that respect.

Mr. WORTHINGTON. Is not that so as to any matter which is brought formally before the presidency, upon which they are to adjudicate, in respect to any right of a member of your church? Does not the member have the right of appeal to the assembled quorums of the priesthood?

Senator SMOOT. I understand so.

Mr. WORTHINGTON. In reference to the apostles being termed prophets: Have you, since you have been an apostle, undertaken to prophesy yourself?

Senator SMOOT. No; I have not.

Mr. WORTHINGTON. A discourse of Brigham Young's has been referred to, at page 457, which was delivered by him in 1852. I believe at that time he was not only the president of your church, but governor of the Territory of Utah?

Senator SMOOT. What year was that?

Mr. WORTHINGTON. 1852.

Senator SMOOT. Yes; Governor Young.

Mr. WORTHINGTON. He was governor of the Territory?

Senator SMOOT. He was governor of the Territory at that time.

Mr. WORTHINGTON. By appointment of the President and by the advice and——

Senator DUBOIS. Confirmation of the Senate.

Mr. WORTHINGTON. By the advice and consent of the Senate of the United States. I was going to use another word and was trying to get the right word.

Senator DUBOIS. By and with the advice and consent.

Senator SMOOT. He was appointed by and with the advice and consent of the Senate.

Mr. WORTHINGTON. In 1852, while he was governor of the Territory and also president of the church, he formally and openly promulgated this rule as to polygamy. That is an historical fact that I think we all agree to.

Senator SMOOT. That is as it has been testified to here.

Mr. WORTHINGTON. He continued to remain governor of the Territory for the rest of his term, did he not—four years?

Senator SMOOT. I think he did.

Mr. WORTHINGTON. At the expiration of his term, was he not—by the President of the United States—reappointed to that office in 1855 by President Pierce?

Senator SMOOT. President Pierce appointed him, I think, in 1855.

Mr. WORTHINGTON. So that after he had promulgated the revelation of polygamy, and while, as we all know, he was a polygamist, living in polygamy, he was appointed governor of that Territory by the President of the United States?

Senator SMOOT. I believe that is the history.

Mr. WORTHINGTON. And served for several years afterwards. You used an expression here which perhaps could not be misunderstood; but in order to avoid the possibility of it I will ask you about it. You said there was a disposition in the State to tolerate old conditions. Did

you mean by that to tolerate the old conditions of people taking plural wives?

Senator SMOOT. Oh, cohabitation. No; not of plural marriage.

Mr. WORTHINGTON. You referred only to polygamous cohabitation, and not to polygamy?

Senator SMOOT. That is all.

Mr. WORTHINGTON. That is all, Mr. Chairman.

The CHAIRMAN. You speak about the leave of absence. Who grants that leave?

Senator SMOOT. The presidency.

The CHAIRMAN. The presidency alone?

Senator SMOOT. Yes.

The CHAIRMAN. Do you know whether Mr. Cowley had leave of absence?

Senator SMOOT. I stated, I think Saturday, that I did not know, Mr. Chairman.

The CHAIRMAN. You do not know, and you do not know what mission he is now on—what field he is now working in?

Senator SMOOT. No; I do not know.

The CHAIRMAN. He is where?

Senator SMOOT. That I can not say.

The CHAIRMAN. To your best knowledge?

Senator SMOOT. The last information I had, and I do not know that that was authentic, was that he was in Mexico.

The CHAIRMAN. Yes, in Mexico. Do you know whether he is working there in the interests of the church?

Senator SMOOT. I do not know what he is doing.

The CHAIRMAN. Do you know what any of these apostles, your associates, are doing, who are now out of the country—who have left the country since this investigation was commenced?

Senator SMOOT. I do not.

The CHAIRMAN. You do not know what they are doing. Have they all had leave to go?

Senator SMOOT. I do not know a thing about it.

The CHAIRMAN. How many presidents of the church have there been?

Senator SMOOT. Six, I think.

The CHAIRMAN. Yes, six: Joseph Smith, Brigham Young—

Senator SMOOT. Joseph Smith, jr., Brigham Young, John Taylor, Wilford Woodruff, Lorenzo Snow, and Joseph F. Smith.

The CHAIRMAN. How many of these were polygamists when they were president of the church, or reputed to be?

Senator SMOOT. Well, it was reputed—all of them I believe, Mr. Chairman, were reputed to be.

The CHAIRMAN. You say the apostles working in the field, gathering the harvest, take with them the Bible and the Book of Covenants, and so on and so forth?

Senator SMOOT. I said the missionaries took the standard works of the church.

The CHAIRMAN. Do the missionaries take the manifesto of 1890?

Senator SMOOT. I understand they do.

The CHAIRMAN. Do you know whether they do or not?

Senator SMOOT. I have been told so.

The CHAIRMAN. It is not published in your books, any of them?

Senator SMOOT. I do not think so; not as yet.

The CHAIRMAN. No?

Senator SMOOT. Only in the Articles of Faith. It is spoken of there, and I think it is in there; but I am not sure.

The CHAIRMAN. These books you say are not given to the searchers for truth in the various fields?

Senator SMOOT. I understand not.

The CHAIRMAN. But they can buy them if they want them?

Senator SMOOT. I think so.

Mr. WORTHINGTON. Permit me to ask one question, Mr. Chairman. Is not the manifesto published in a pamphlet by itself?

Senator SMOOT. It is.

The CHAIRMAN. Has the church, as a church, to your knowledge ever taken any action against members of your church practicing polygamous cohabitation?

Senator SMOOT. I think I answered that this morning, Mr. Chairman, that they had not, to my knowledge.

The CHAIRMAN. I did not know that I had asked you.

Senator McCOMAS. Senator Smoot, you say you obtained leave of absence from the Mormon Church——

Senator SMOOT. From the presidency of the Mormon Church.

Senator McCOMAS. From the presidency of the church, when you came to attend the first session of the Senate?

Senator SMOOT. I obtained it, Mr. Senator, before I even announced my candidacy——

Senator McCOMAS. Yes, I understand that.

Senator SMOOT. For the Senate.

Senator McCOMAS. But in order to know if I am right, did you also obtain the assent of the presidency of the church when you came to attend the first session of the Senate?

Senator SMOOT. No; I told him when I first spoke to him that if I succeeded in my canvass and was elected Senator, my first duty would be here and whatever time it required of me to attend to that duty, that I should expect it as long as I held the position.

Senator McCOMAS. So you have asked no other consent to go to the Senate of the United States from the presidency of the Mormon Church?

Senator SMOOT. Not since that date. I can leave any day I want, when it is a duty that calls me as a Senator.

Senator McCOMAS. And that occurred when you were a candidate for the Senate—when you were on your canvass?

Senator SMOOT. Yes; before I announced—before my canvass; yes.

Senator McCOMAS. You have had no communication on that subject since with the presidency?

Senator SMOOT. I have not.

Senator McCOMAS. Nor deemed it necessary to have it?

Senator SMOOT. It will not be.

Senator McCOMAS. I wanted to understand how that was.

Senator SMOOT. I had that distinct understanding with them to start with.

Senator McCOMAS. That is all, Mr. Chairman.

Mr. TAYLER. I understand you to say the apostles have charge of the mission work?

Senator SMOOT. That is their special duty; they and the seven presidents of seventies.

Mr. TAYLER. When an apostle goes out, he goes out on mission work, does he?

Senator SMOOT. When he is sent by the presidency.

Mr. TAYLER. If he is away, out of the country, in Mexico, Europe, the Sandwich Islands, or Canada, is he not out on mission work of some sort?

Senator SMOOT. Of course I do not know, Mr. Tayler. I could not say as to that.

Mr. TAYLER. Suppose he was?

Senator SMOOT. If he was on missionary work, I should think he would be sent by the president of the church.

Mr. TAYLER. Do not the apostles know about those things, if they are in charge of the mission work?

Senator SMOOT. No; the apostles need not know whether the president sends any one of their membership out. The presidency can do that any time they want.

Mr. TAYLER. You think the same authority that can send out can recall?

Senator SMOOT. If it is on church work, yes.

Mr. TAYLER. They could not recall him unless he made an affidavit that it was for church work, do you mean?

Senator SMOOT. I do not think that, Mr. Tayler. What I mean is this: If it was a purely church calling, or if he was sent by a church call, the presidency could ask him to come back any time.

Mr. TAYLER. Do you not think if the president of the church sent word to Heber Grant that he was wanted in this country it would be his duty to come?

Senator SMOOT. I think he would.

Mr. TAYLER. Without asking any questions?

Senator SMOOT. He is there on a special mission of church work, and specially called for it, and I think he would come.

Mr. TAYLER. If word were sent by the president to Apostle John W. Taylor that he was wanted in this country, do you not think he would come?

Senator SMOOT. Well, John W. Taylor, as I understand it, lives in Canada. That is his home. He has his business interests there, and I do not know whether he would or not, Mr. Tayler.

Mr. TAYLER. You say that is his home?

Senator SMOOT. I think it is.

Mr. TAYLER. Has he no home in Utah?

Senator SMOOT. He used to have a home, but all of his interests are up in Canada now.

Mr. TAYLER. You mean his private personal interests?

Senator SMOOT. Yes; his investments, and so on.

Mr. TAYLER. Do you think he asks permission to go to Canada, or is he sent there?

Senator SMOOT. Well, I do not know whether he asked permission to go there and make those investments or not. That was long before I was an apostle.

Mr. TAYLER. The political manifesto, so called, is supposed to refer to other things than politics, is it not?

Senator SMOOT. Yes; it is.

Mr. TAYLER. The same thing that would cause a man to lose his time, prevent him from attending to ecclesiastical duties, would require his obtaining consent, would it not?

Senator SMOOT. They would.

Mr. TAYLER. So that before Apostle John W. Taylor could take on any business enterprise that would take any of his time, he would have to get the consent of the church?

Senator SMOOT. Either that or be out of harmony.

Mr. TAYLER. Now, when your missionaries go out into the world do they not use this little book, entitled "Ready References. A compilation of scriptural texts, arranged in subjective order, with numerous annotations from eminent writers; designed especially for the use of missionaries and scripture students. Salt Lake City, Utah: The Deseret News Publishing Company, Printers and Publishers, 1892"?

Senator SMOOT. I think they used it quite freely, but since the Articles of Faith have been published I think they use the latter a good deal more than they do Ready References.

Mr. TAYLER. This was used, was it not, long after the manifesto, and printed long after the manifesto?

Senator SMOOT. I do not know as to that, Mr. Tayler.

Mr. TAYLER. Does not that little book contain an argument in favor of polygamy?

Senator SMOOT. I think it has quotations from and references to the Bible, where it claims that polygamy is upheld by the Bible.

Mr. TAYLER. Yes; for instance, "Plurality of wives sanctioned by the law?"

Senator SMOOT. Yes.

Mr. TAYLER. "Polygamous son blessed by the Lord;" "Polygamy right in the sight of God," and so on? There is a good deal besides scriptural quotations, is there not, on the same subject?

Senator SMOOT. I do not remember just what there is, but I think there is.

Mr. TAYLER. Is there not quite a long argument, beginning on page 222, showing the historical——

Senator SMOOT. I do not think that is used, Mr. Tayler.

Mr. TAYLER. The historical facts about polygamy and its propriety and a large number of writers cited, covering some five printed pages of this volume?

Senator SMOOT. I say I know that the book contains a great many references to the subject, but I do not believe it is used very much now as a ready reference——

Mr. TAYLER. You do not think it is?

Senator SMOOT. Among our missionaries.

Mr. TAYLER. There was another thing to which I called your attention this morning and I could not find the reference I was then seeking in respect to the unanimity of the apostles. You testified this morning concerning the provision in the Doctrine and Covenants on that subject. Now, I want to call your attention to the remarks of John Henry Smith in connection with Moses Thatcher, on pages 255 and 256 of this record, where he says:

"The presidency of the church"——

and I want to ask you if this is in accordance with your view of the

actual conduct of business in the first presidency and the quorum of twelve—

“The presidency of the church and the council of the apostles, in their deliberations upon all questions that affect the well-being and interest of the cause, are as candid and frank in their consultations and expression of views as any body of men could possibly be.”

Is that right?

Senator SMOOT. I have so experienced that. They say just what they want to say.

Mr. TAYLER (reading): “But when a conclusion has been reached as to the course that should be pursued, it is expected that every man will give in his adherence to the course marked out, and with unfaltering voice and fixed determination, so that those counsels may prevail, so far as may be possible, among the whole people.”

That is right, is it not?

Senator SMOOT. I do not think he has to go out and work for it, but I do not think he ought to oppose it after a majority of the council have agreed about it. For instance, Mr. Tayler, we have had questions come up, as I said, like that in regard to the Deseret News Building.

Mr. TAYLER. Yes.

Senator SMOOT. I remember another one that came up with regard to the location of the Latter-day Saints' University, at the head of Main street. I did not think it was a good location. My idea of that was to get out farther, where they could have plenty of land and have a school established there, and I opposed it just as long as I could.

Mr. TAYLER. I understand that. Nevertheless, the proposition is correct, is it, that “it is expected that every man will give in his adherence to the course marked out, and with unfaltering voice and fixed determination?”

Senator SMOOT. No; I think that is magnified.

Mr. TAYLER. A matter of policy in the church?

Senator SMOOT. I think that is magnified.

Mr. TAYLER (reading):

“This feeling and sentiment has been expressed in telling language by President Woodruff and by President Lorenzo Snow, and I believe that every one of the council of the apostles, with the first presidency, would make a similar expression of views upon this matter were they to speak upon this subject.”

Senator SMOOT. That was John Henry's view, I take it.

Mr. TAYLER. That is all.

The CHAIRMAN. Have you anything further, gentlemen?

Mr. WORTHINGTON. That is all, Mr. Chairman.

DISCOURSE OF PRESIDENT JOSEPH F. SMITH.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. Mr. Chairman, you will remember that Doctor Buckley testified to having listened to a certain discourse by President Smith, and there was put in the record what he had said for publication with reference to it. We have here the transcribed notes of the stenographer who took down that sermon, word for word, at the time it was delivered, with his affidavit to that effect. I have shown this to

Mr. Tayler, and counsel agree, if the committee has no objection, that this may be offered in evidence without our sending for the stenographer.

The CHAIRMAN. Let it go in.

Mr. TAYLER. Taken in connection with his affidavit?

Mr. WORTHINGTON. Certainly.

Mr. TAYLER. Of course we do not admit that the——

Mr. WORTHINGTON. It is agreed that it may be received as though he had testified to it. That is all.

Mr. TAYLER. That is right.

The paper referred to is as follows:

President JOSEPH F. SMITH. Agreeable to our little programme, it falls to my lot to say a few words, and I hope very sincerely that the Lord may help me for the time that I shall stand before you, that what I say may be suited to the occasion, and instructive at least to some, if not to all.

I have been requested to make some remarks relative to the great and important subject of marriage. It would be, of course, a matter of impossibility for me to enter to any great extent into the consideration of the great question of matrimony. I can only expect to say a few words on the subject, as the Spirit may give me utterance.

A great many people in the world regard marriage as simply a business contract, or perhaps we may call it a social contract, which is governed entirely by laws of convenience and the laws of the land, and the ceremonies extant in the world are confined only to this life, and men and women are not joined together in the bond of holy wedlock with a view to anything further or beyond the present existence. And the result is, as a rule, that the yoke of matrimony sets very easily upon the shoulders of most men, and I am led to believe, and I am sorry to confess my belief, upon many women, although the consequences of marriage fall more heavily upon the woman than they do upon the man. More, if possible, rests upon the woman, upon the wife, in marriage, than rests upon the husband or upon the man. Men do not feel, are not physically ordained and capacitated to feel, the weight and the responsibility of motherhood or of bearing a family into the world, that the woman is organized to feel and to bear. And while this is a subject of vital importance to the woman especially, I would like, if it were possible, to make it appear that it is equally important, and that it should bear with equal weight and responsibility, upon the man.

I desire to read a little from the scripture, in order to lay a foundation for the expression of a few thoughts. I will read a few verses from the first chapter of Genesis, respecting the origin of man, and the responsibility that was laid upon him, or upon them, in the morning of their being.

“And God said, Let us make man in our image, after our likeness, and let them have dominion over the fish of the sea and over the fowl of the air and over the cattle and over all the earth and every creeping thing that creepeth upon the earth. So God created man in his own image; in the image of God created He him, male and female created He them. And God blessed them, and God said unto them, Be fruitful and multiply and replenish the earth, and subdue it, and have dominion over the fish of the sea and over the fowl of the air and over every living thing that moveth upon the earth.”

Now I need only remark to this vast congregation that we have man here, created in the image of God, male and female; and they are as yet immortal beings, and although immortal beings they are joined together, and a great commandment is given unto them, that they shall be fruitful and that they shall multiply and replenish the earth and subdue it and have dominion over it. This is the first marriage recorded in the annals of God's dealing—or the inspired annals of God's dealings with His offspring in the earth. And it is the true pattern of matrimony, which should continue, and was intended to continue throughout all the ages in this world and throughout all the eternities that are to come, for it was instituted for immortal beings.

The marriage of the first couple, formed in the image of God and in His likeness, was not a civil contract. It was not merely a legal contract and agreement. It was not "until death should part" them. It was a contract between two immortal beings, and it was a contract that was destined to continue so long as they should continue, both in mortality and in immortality. In other words, it was to continue in this world and in the world to come. This was the original and is now and always has been God's idea, God's purpose, and God's decree with respect to the union of men and women throughout all their generations. And the Lord made it or, in other words, He revealed it unto Adam, and Adam expressed the hope, as it is recorded in the Bible, when he declared, or when Adam said, "This," pointing to the woman, or speaking of the woman, "is now bone of my bone and flesh of my flesh: she shall be called woman, because she was taken out of man. Therefore" (saith he), or saith the Lord through him, as indicative of the relationship that should exist between the man and the woman, or between the husband and the wife—"Therefore shall a man leave his father and his mother and shall cleave unto his wife, and they shall be one flesh."

And again the Lord said: "This is the book of the generation of Adam. In the day that God created man, in the likeness of God made He him, male and female created He them, and blessed them, and called their name Adam, in the day when they were created."

It is not my intention to dwell largely upon these passages of scripture. It may, perhaps, suffice me to say that here is the word of the Lord in relation to the manner of man's creation, of his coming into being, and that he is made in the image and likeness of God, male and female. The world have had this scripture before them for ages, and yet they have not understood it, for they will not receive it.

I will read a verse from the 11th chapter of First Corinthians, and I will say that here is a principle that permeates the Gospel plan, that permeates God's purposes with reference to man and his being in the world and beyond this world, and this is a great principle that the world does not comprehend; at least, I think we are justified in saying that the world do not comprehend it if we judge by their acts and by their ceremonies and by their religious tenets and ideas relating to and governing the great moral principle of marriage or holy matrimony between man and woman. Paul says, in the New Testament, speaking in the dispensation of the Son of God, speaking, too, in accordance with the principle of the Gospel that was taught by Him, and that was in force in His day, and was understood by the disciples of Jesus Christ, and also so understood by Jesus Christ, and so taught to His disciples: "Nevertheless, neither is the man without the woman, neither the

woman without the man in the Lord, for as the woman is of the man, even so is the man also by the woman, but all things of God."

Let me add to this that there is no exaltation in the kingdom of God for the man without the woman, and there is not and can not be, in the kingdom of our God, exaltation and glory and the fulfillment of the object of her being for woman without the man. And Paul has laid down the principle and taught it, that the man is not without the woman in the Lord, neither is the woman without the man, for as the woman is of the man even so is the man also by the woman, but all things of God. No man's happiness, the object of no man's being in this life, nor in the life to come, can ever be fulfilled or consummated single and alone. It is a matter of absolute impossibility. Alone the man is not in the likeness of God; and inasmuch as he was created in the image and in the likeness of God, male and female, it is in accordance with His purpose that they should remain together in the bond of sacred wedlock for time and for all eternity.

Let me turn to another passage of scripture here. I will not attempt to read it, but will relate it in fewer words. It is simply this, that the Pharisees, who did not believe in the resurrection from the dead, came to the Savior and tempted him, saying, Master, there were seven brothers, and they spoke in accordance with the law of Moses that was then in force and that had existed from the time it was given to Moses throughout all the generations of Israel. It was the law that if a man married a wife and died without issue, that his brother should take his wife and raise up seed unto his brother in order that his name should not be cut off in Israel; that his name should not become extinct, but that it should be perpetuated through posterity from her who was given to him of the Lord, but which the Pharisees did not understand.

Now, they said there were seven brothers all had her, and each died, leaving no issue. Now, said they, in the resurrection whose wife shall she be, for they all had her? Jesus replied, "Ye do err, not knowing the scriptures and the power of God, for in the resurrection there is neither marrying nor giving in marriage, but all are as the angels in heaven." Now, what did he mean? According to the scripture which I have read, he understood, no doubt - I need not put in that expression, for he thoroughly understood---that in the beginning the woman was made and given to the man, and that he to whom she was given by the living God, to him she belonged throughout time and eternity, and it made no difference if he should die how many husbands she might have had, for she could only belong to the one man to whom God had given her. And when God gives, He gives with a view to eternity as well as to time. When God deals with the children of men, He remembers exaltation and eternal progress, and deals with them on the ground that they are immortal beings, and will continue to live, as He lives, and will never come to an end, and never come to a stop. Now, to show the sacredness in which this principle was held by the Son of God, and by which it is held by the Almighty, I will read to you another little scripture here:

"And it came to pass when Jesus had finished these sayings He departed from Galilee and came into the coasts of Judea, beyond Jordan, and great multitudes followed Him, and He healed them there. The Pharisees also came unto Him, tempting Him and saying unto Him, Is it lawful for a man to put away his wife for every cause?

And He answered and said unto them, Have ye not read that He which made them in the beginning made them male and female, and said, For this cause shall a man leave father and mother and shall cleave to his wife, and they twain shall be one flesh; wherefore they are no more twain but one flesh. What, therefore, God hath joined together let not man put asunder," or, in other words, what God joins together no man can put asunder.

Nor can death sever the bond of union that exists between the husband and the wife if it be consummated by the will and authority of Almighty God. If God give a woman unto a man He gives her to him for time and eternity, and death will not part them, and time can not part them, nor can man sever the bond of union that exists between them, because it is beyond the power of man to do it, and nothing can accomplish that but wickedness and the transgression of the laws of God, and the alienation of the heart and affections of the woman from the man or of the man from the woman. And the man cannot withdraw his affections from his wife so long as she is virtuous and pure and true to him, if God has given her to him, for it is he that has humbled her, and she has given herself unto him, and God has given her unto him, and there is only one thing that can ever sever or take her from him, and that is his absolute unworthiness of her.

He may turn from the truth; he may turn from the right way; he may deny the blood that cleansed him from sin, the Lord that bought him, the power that united him with his wife; he may turn away from the truth and turn his back upon that which God has given him, and in that case the talent—if you will permit me to use the expression, for Jesus used it, and I only repeat His words—the talent that was given unto that man shall be taken from him, and shall be given unto him that hath ten. For to him that hath not from him shall be taken that which he hath, and to him that hath shall be given more abundantly. God will do it, though, and He will do it in His own way and in His own time, and not man. Therefore, we are talking of marriage that is of the Lord, that is ordained of God, that is lawful unto man, both according to the laws of the land and according to the laws of God. It is an eternal ordinance, it is an ordinance of the gospel, marriage is. It is not simply a civil contract, or at least God does not hold it so.

Now, then, the Pharisees say unto Him, Why did Moses then command to give a writing of divorcement and put her away? He said unto them, "Moses, because of the hardness of your hearts, suffered you to put away your wives, but from the beginning it was not so. And I say unto you, whosoever shall put away his wife except it be for fornication and shall marry another, commiteth adultery, and whosoever marrieth her which is put away doth commit adultery." And Jesus continues, in other parts of the scripture, to show us what adultery is, that he that "looketh upon a woman to lust after her in his heart," that is, with the principle developed in his soul that he would defile that woman, that he would destroy her flesh where in his power, that man commits adultery in his heart, and is worthy of death.

Now I see that the time is going. There are many things that could be said upon this subject, but I can not pursue the subject further, except to say to the young men and to the young women who are engaged in this great work of mutual improvement among the youth

of Zion that we desire that you shall understand this principle is one of the most vital principles of the gospel of Jesus Christ. It is one of the most sacred principles, one of the most sacred obligations that it is possible for a man to take upon himself, or for a woman to take upon herself. It involves the wellspring of life itself. It is the source of increase in time and throughout eternity. The immortal souls of men come through the sacred bond of wedlock. The tie that binds the father and the mother and the child together is an eternal tie, as the child is immortal and as the father and the mother are immortal beings and can not die, and can not cease to be, but will forever live, on and on, throughout all the countless ages of eternity.

This tie and this bond that unites the parents to the children and the children to the parents is given of God, to be coeval with themselves, to continue forever and ever. And the man or the woman, under the strict law of God, that would dishonor the principle of holy wedlock and would debauch or degrade himself or herself by unlawful commerce, by committing adultery—I say any man or woman that will condescend to degrade themselves in the presence of Almighty God by the committal of this crime is damned by the Almighty God to the penalty of death. That is his penalty. God will execute it, too. It will not be left for man to do it, but God will see to it, for He will see that not only the transgression of His laws, but also the blessings and the rewards that pertain to obedience to His laws shall be verified and fulfilled upon His children.

Now, I thank God that He has put it into my heart to believe, as I believe, in the divine mission of my redeemer, as I believe in the existence of the father of my spirit and the father of my Lord and Savior Jesus Christ, to believe that He has put it into my heart to believe this eternal principle that exists between me and the mothers of my children. I dare not—not because I am a coward, not because I stand craven before men, not because I dare not do what other men dare do in that which is right—but I dare not do that which would forfeit to me the sacred gifts that God, my Father, has bestowed upon me. I can not do it; I can die; I can be banished; I may go into exile; I may be driven to the utmost extremities, but that is one thing I can not do, and that is to bring upon myself, by any act of mine, a forfeiture of the sacred gifts bestowed upon me by Almighty God. I can not do that. If I did, I would be damned, eternally damned, because I know better. I believe better; I understand too much to do these things, and therefore I can not do them unless I am prepared to abandon hope of exaltation, hope of everlasting life, hope to be associated with the mothers of my children, hope to be associated forever with my sons and my daughters, and with the people of God forever and ever, and become a son of perdition, to be cast down to hell, to be damned forever.

I am not prepared to do that which would cast me down to destruction and to everlasting ruin. I can not do it. Therefore I have got to be true to these women; I have got to be true to my brother and to my sister and to my children. I have got to be true to these sisters here. They are my sisters, formed in God's image and likeness, in the image of their eternal mother, with myself. I am bound to be true to those with whom I have entered into sacred and solemn covenant forever. I am bound to be true to them as far as my human weakness will permit me to be. I can not say that I am perfect by

any means. I can not say that I do all that I should do; that I am equal to the grand responsibilities that are devolving upon me. I can not say that I am equal to those things. But I can say, and I do say, that I am determined, by the help of my God, to be true to mankind, true to myself, and true to my God while I live, at least, and I shall not fear after that.

Now, men make light of marriage, men ridicule it. Men sometimes make light of their wives, and jeer them, and joke them, and criticise them; make light of this sacred union that exists between them. Some people perpetrate all kinds of jokes about men and their wives. It is abominable. I would as soon think of joking of God, of perpetrating squibs and foolish sayings and nonsense about the sacredness of God Himself as I would think of perpetrating those things in any serious way or to any extent upon my wife or towards my wife. It has become a standing joke, published in newspapers, in books and periodicals all over the world, that men get trapped into matrimony. They joke about it. They talk lightly about it, and they speak of the marriage relation as a trivial, unimportant, fanciful thing that has but little of reality in it. It is abominable, and it is one of the curses of the world to-day, because men hold this relationship so lightly that they think nothing of violating their marriage covenants, and many women, too; if we are to believe the histories we read and the declarations we hear from time to time, there are many women, too, that follow the examples of their husbands, and they are corrupt and impure.

This sort of thing can not exist in Zion among the Latter-Day Saints with impunity. If it exists it will bring a curse upon those who indulge in it, and God will be displeased with them, and His wrath and judgment will come upon them. Men joke about their mothers-in-law as if to have a mother-in-law was one of the great curses of matrimony. I want to say to you that the best friends I think I ever had in my life have been my mothers-in-law, and I honor them, and I love them, because they are the mothers of my companions for time and eternity. I haven't any word of contempt to offer for my mothers-in-law, none whatever, for they were good women, worthy of their daughters, so far as I know, and they have always, at least so far as my experience goes, been my friends.

Now, my young friends, I might turn to you and read the law of God in relation to marriage, which we have here in the greatest possible plainness, but the time will not permit this afternoon. I thank you for the attention that you have given to me. I realize that I have but merely hinted at this great subject and this great matter. I desire, however, to say to you, my brethren and sisters, that if God will visit upon any man or any people His wrath and His condemnation for any sin, it will be for the sin of infidelity and of impurity in the homes of the people of God. The home must be kept pure. The home must be a sacred place. The home must be the shrine of virtue and a prayer unto God, where the father, the mother, the children, and those that sojourn under the roof may bow the knee together and supplicate the throne of grace, where their hearts can blend together and their voices ascend unto God in supplication for mercy, for blessing, for protection upon their heads.

And I will say this, notwithstanding what the world says concerning the Latter-Day Saints, that there are no purer homes in all this world to-day than are the homes of the Latter-Day Saints. There are no families

on earth to-day within the range of my experience—and I have traveled some—that observes the principles of virtue and purity more faithfully than do the Latter-Day Saints. There can not be found, travel the world where you will, more virtue, more purity, more honesty, greater integrity between the husband and the wife and between the children and the parents than can be found right here in Utah.

There is not anywhere that it exists to a greater extent than it does here; and all this prating about the purity of the American home and all that sort of thing, we will second, the Latter-Day Saints, the leaders of this people, will second, the genuine, honest efforts of all the reformers in every part of the world to increase, if possible, the purity of the homes of the people. We will do all that we can to abet and to aid in this good work, for we believe in it, and believe in it in dead earnest.

God bless you. May peace abound with you, my young friends, engaged in mutual improvement work, is my prayer in the name of Jesus. Amen.

The choir sang the anthem, "With sheathèd sword."

Benediction by Sister Julia M. Brixen.

STATE OF UTAH,

County of Salt Lake, ss:

I, F. E. Barker, hereby certify that I have followed the business of public reporting as a business much of the time for the past twenty years and upwards, and have been for many years an official court stenographer and am at this time; that I was employed by the M. I. A. Associations General Boards to officially report the proceedings, occurring on Sunday, June 5, 1904, of the Young Men's and Young Ladies' Conjoint Mutual Improvement Conference, and at that time reported the foregoing discourse by Joseph F. Smith, literally and verbatim; that I sat within a few feet of the speaker, on about the same level, in a position specially designed for perfect hearing by the official reporter, was familiar with the voice and manner of the speaker, and experienced no difficulty in hearing and understanding him, or in fully reporting his every utterance; that within a week after said discourse was delivered I transcribed the same, and the foregoing transcript thereof was then delivered, in duplicate, as my transcript thereof, intended for publication; that I have this day (January 4, 1905) carefully compared, seriatim, said foregoing transcript with my original shorthand notes and corrected the same to the extent of making them literally correct, which I hereby certify the foregoing transcript of said discourse, consisting of 12 pages, hereto attached, to be.

F. E. BARKER.

JANUARY 4, 1905.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Moroni Gillespie.

TESTIMONY OF MORONI GILLESPIE.

MORONI GILLESPIE, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your age?

Mr. GILLESPIE. I am forty-three, past.

- Mr. VAN COTT. Where do you live?
- Mr. GILLESPIE. In Salt Lake City.
- Mr. VAN COTT. How long have you resided there?
- Mr. GILLESPIE. All my life.
- Mr. VAN COTT. What is your occupation?
- Mr. GILLESPIE. I am a patrolman at the present time.
- Mr. VAN COTT. In Salt Lake?
- Mr. GILLESPIE. In Salt Lake City.
- Mr. VAN COTT. You are on the police force?
- Mr. GILLESPIE. Yes, sir.
- Mr. VAN COTT. How long have you been connected with the police force of Salt Lake City?
- Mr. GILLESPIE. Between eleven and twelve years.
- Mr. VAN COTT. Do you know J. H. Wallis, sr.?
- Mr. GILLESPIE. I do.
- Mr. VAN COTT. How long have you known him?
- Mr. GILLESPIE. Seven or eight years.
- Mr. VAN COTT. Do you know his general reputation for truth and veracity in the community in which he lives?
- Mr. GILLESPIE. I do.
- Mr. VAN COTT. Is it good or bad?
- Mr. GILLESPIE. It is bad.
- Mr. VAN COTT. Would you believe him under oath?
- Mr. GILLESPIE. I would not.
- Mr. VAN COTT. Have you been present in the police court when J. H. Wallis, sr., has been there?
- Mr. GILLESPIE. I have.
- Mr. VAN COTT. Do you know whether he has pleaded guilty?
- Mr. GILLESPIE. On one occasion he pleaded guilty.
- Mr. VAN COTT. To what?
- Mr. GILLESPIE. Drunkenness.
- Senator McCOMAS. Mr. Chairman, there has been great liberality in these examinations, but it seems to me we could send for the record.
- Mr. VAN COTT. I will inquire about that.
- Senator McCOMAS. This is a statement in regard to a man who is absent many thousands of miles. I do not know who the man is.
- Mr. WORTHINGTON. He testified on cross-examination he had never been arrested.
- Senator McCOMAS. And this man arrested him?
- Mr. WORTHINGTON. He was present after he had been arrested.
- Mr. VAN COTT. He was present when he plead guilty. I want to interrogate a little further in order to answer your inquiry about this, Senator.
- Mr. Gillespie, is it rather a common matter when men are arrested and are in the police court to give assumed names?
- Mr. GILLESPIE. Yes, sir; very often.
- Mr. VAN COTT. Did Mr. Wallis give an assumed name when he was lled on this charge?
- Mr. GILLESPIE. My recollection is not clear on that.
- Mr. VAN COTT. Did you search the records to find whether the name of J. H. Wallis, sr., appeared on the record?
- Mr. GILLESPIE. I did not.
- Mr. VAN COTT. I will say, Senator, that we had the search made, and it was reported to us that no such name appeared. That is the

reason I have put the questions in the way I do. Men give assumed names, so that the name of J. H. Wallis might not appear on the record even though he was there.

Senator McCOMAS. Is it to be taken for granted that because men give assumed names therefore this man did?

Mr. VAN COTT. Not at all. I mention that to show what the situation is.

Senator McCOMAS. My only point is that in a case of this sort persons who are many thousand miles away ought not, perhaps, to be impeached except in the regular fashion. It is true this is an inquiry and not a trial; but this refers to a man who is far away and who has had no notice of any attempt to impeach either his veracity or his character.

Mr. WORTHINGTON. I would say in regard to that suggestion, Mr. Chairman and Senators, that it strikes me this way. I have not myself had anything to do with this matter, as Mr. Van Cott has had charge of it. It appears from the testimony of this witness that Wallis was brought before the court on a charge and plead guilty and was convicted. It appears further that the records of that court have been searched and there is no record there of his name. I should think that would be evidence which would not only tend to show, but would *prima facie* establish that he had given a false name, and it would be impossible to get the record, because no one knows what name appeared there.

Senator McCOMAS. If this man knew he was fined, it would seem that he would also be able to know in what name.

Mr. TAYLER. That is what I was going to ask him.

Senator McCOMAS. How can he know who it was unless there was a name given?

Mr. VAN COTT. Because he knows the man. I have not completed my examination. You know J. H. Wallis personally, do you?

Mr. GILLESPIE. Yes, sir.

Mr. VAN COTT. Has he been a neighbor of yours for several years?

Mr. GILLESPIE. Yes, sir.

Mr. VAN COTT. Were you present in court when he was arraigned and plead guilty?

Mr. GILLESPIE. Yes, sir.

Senator McCOMAS. Why not let him testify a little himself, since he is impeaching somebody else?

Mr. VAN COTT. It has been gone over, Senator. That is the reason I put it in the leading form.

Mr. Gillespie, what was the result when he pleaded guilty?

Mr. GILLESPIE. He was reprimanded and discharged.

Mr. VAN COTT. You say you have known Mr. Wallis several years. I will ask you from your acquaintance with him, your knowledge of him during these years, what is your opinion as to his sanity?

Mr. GILLESPIE. My opinion is that he is not altogether sound.

Mr. VAN COTT. Do you know Angus M. Cannon, jr.?

Mr. GILLESPIE. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. GILLESPIE. Many years. I could not just say how long. It must have been twenty or thirty years.

Mr. VAN COTT. Do you know his general reputation for truth in the community in which he lives?

Mr. GILLESPIE. Yes, sir.

Mr. VAN COTT. Is it good or bad?

Mr. GILLESPIE. It is bad.

Mr. VAN COTT. Would you believe him under oath?

Mr. GILLESPIE. I would not.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. You would not believe Angus Cannon under oath?

Mr. GILLESPIE. No, sir.

Mr. TAYLER. You would not believe him if he testified that he did not see Joseph Smith marry Abraham Cannon?

Mr. GILLESPIE. How is that? I did not understand that question.

Mr. TAYLER. No, I supposed not. You said you would not believe Angus Cannon on oath. Would you?

Mr. GILLESPIE. No, sir.

Mr. TAYLER. Then you would not believe his testimony here, would you?

Mr. GILLESPIE. I would not believe his testimony anywhere.

Mr. TAYLER. So I say. If he testified he did not see Joseph F. Smith marry Abraham Cannon to Lillian Hamlin, you would not believe him? You would know he was lying because he said it, would you not?

Mr. GILLESPIE. I would have no confidence in what he would say.

Mr. TAYLER. So that absolutely nothing that he would say would carry any weight with you?

Mr. GILLESPIE. Nothing at all.

Mr. TAYLER. The same way with Old Man Wallis?

Mr. GILLESPIE. Just exactly.

Mr. TAYLER. When he plead guilty, did you hear his name?

Mr. GILLESPIE. I must have heard his name, but I do not remember it.

Mr. TAYLER. Then, of course, if you heard his name you knew he was lying, did you not?

Mr. GILLESPIE. I knew he was lying when he was——

Mr. TAYLER. When he gave a false name?

Mr. GILLESPIE. Assuredly.

Mr. TAYLER. Is it your business, as a policeman, to conceal the identity of people who appear there?

Mr. GILLESPIE. No, sir.

Mr. TAYLER. Then when Old Man Wallis went in there and told the wrong name you paid no attention to it. You permitted that to go on, did you?

Mr. GILLESPIE. I did. It was none of my business.

Mr. TAYLER. What were you doing there?

Mr. GILLESPIE. Simply as an officer attending court.

Mr. TAYLER. Then did you go to work and look up the record and see if his name was on it?

Mr. GILLESPIE. I did not.

Mr. TAYLER. Of course you knew his name was not there, did you not?

Mr. GILLESPIE. I did not.

Mr. TAYLER. You did not know anything about it?

Mr. GILLESPIE. No, sir.

Senator McCOMAS. What was the offense?

Mr. GILLESPIE. Drunkenness.

Senator McCOMAS. What name did he give?

Mr. GILLESPIE. I do not know.

Senator McCOMAS. You do not know? You heard it?

Mr. GILLESPIE. I do not know what name he gave.

Senator McCOMAS. You heard him give it, did you not? You heard him give the name?

Mr. GILLESPIE. No. When a person is arrested he is taken before what we term a desk sergeant by the arresting officer. There he is asked his name and searched and locked up.

Senator McCOMAS. Then you heard the name given by the officer?

Mr. GILLESPIE. I was not there at that time.

Senator McCOMAS. You were not there when he gave the name?

Mr. GILLESPIE. No, sir.

Senator McCOMAS. Were you there when he was arraigned?

Mr. GILLESPIE. I was in court when he was arraigned; yes, sir.

Senator McCOMAS. In what name was he arraigned?

Mr. GILLESPIE. I do not remember.

Senator McCOMAS. In what name was he sentenced?

Mr. GILLESPIE. I do not remember that.

Senator McCOMAS. How do you know he gave an assumed name if it was not upon the warrant of arrest?

Mr. GILLESPIE. I did not know that.

Senator McCOMAS. You do not know that he gave an assumed name, then?

Mr. GILLESPIE. I do not.

Senator McCOMAS. Then why do you say you do know?

Mr. GILLESPIE. I did not say so. If I did I was mistaken.

Senator McCOMAS. What did you say about his giving an assumed name?

Mr. GILLESPIE. I do not know that I said anything about an assumed name in regard to him.

Senator McCOMAS. As to Wallis?

Mr. GILLESPIE. As to Wallis?

Senator McCOMAS. Oh, you did not? That is all.

The CHAIRMAN. What is your church connection?

Mr. GILLESPIE. I belong to the so-termed Mormon Church.

Mr. TAYLER. Now, would you believe Wallis was lying always?

Mr. GILLESPIE. I would have no confidence in anything he would say.

Mr. TAYLER. Nothing at all?

Mr. GILLESPIE. None at all.

Mr. TAYLER. If a hundred people said the same thing he said, you still would not believe him?

Mr. GILLESPIE. I would not believe Mr. Wallis under oath under any circumstances.

Mr. TAYLER. On anything?

Mr. GILLESPIE. No, sir.

Mr. TAYLER. Especially if it pertained to the Mormon Church?

Mr. GILLESPIE. On anything, Mr. Tayler.

Mr. TAYLER. So you mean to say that if 99 other people testified to the same thing, and Wallis testified to it, you would know it was all a lie?

Mr. GILLESPIE. I did not say so.

Mr. TAYLER. Did you not say that?

Mr. GILLESPIE. No; I did not. I said that I would have no confidence in what Mr. Wallis said.

Mr. TAYLER. Then, if a hundred people sustained him, you would not have any confidence in what he said?

Mr. GILLESPIE. I would not.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. Mr. Gillespie, in reference to what Mr. Tayler asked you about a plural marriage, if a man told you that that man had testified he never was present and saw Mr. Abraham Cannon married to a plural wife, would you believe it?

Mr. GILLESPIE. What was that question?

Mr. WORTHINGTON. If this man, Angus M. Cannon, jr., had testified that he never was present when Abraham Cannon was married to a plural wife, would you believe him?

Mr. GILLESPIE. That he never was present?

Mr. WORTHINGTON. Yes.

Mr. GILLESPIE. I can not quite catch it.

Mr. WORTHINGTON. That is rather abtruse.

The CHAIRMAN. You say you belong to the Mormon Church. Have you ever taken the endowments?

Mr. GILLESPIE. I have; yes, sir.

The CHAIRMAN. When?

Mr. GILLESPIE. About 1880.

The CHAIRMAN. Where?

Mr. GILLESPIE. In Salt Lake City.

The CHAIRMAN. In the temple?

Mr. GILLESPIE. In the endowment house. It was before the temple was completed.

The CHAIRMAN. Did others take it with you at the same time?

Mr. GILLESPIE. Yes, sir.

The CHAIRMAN. How many?

Mr. GILLESPIE. I do not remember.

The CHAIRMAN. Who officiated at that time?

Mr. GILLESPIE. I do not remember of but one or two. President Joseph F. Smith was one of them.

The CHAIRMAN. The present president?

Mr. GILLESPIE. Yes, sir.

The CHAIRMAN. Who else?

Mr. GILLESPIE. That is about the only one I can remember of.

The CHAIRMAN. Could you tell us what the ceremony was?

Mr. GILLESPIE. No, sir; I will not.

The CHAIRMAN. Why not?

Mr. GILLESPIE. I do not feel like doing it.

The CHAIRMAN. Why not? Are you under any obligation not to tell?

Mr. GILLESPIE. To my God; yes, sir.

The CHAIRMAN. When did you enter into an obligation with your God not to disclose that?

Mr. GILLESPIE. At that time.

The CHAIRMAN. At the same time you took the ceremony?

Mr. GILLESPIE. Yes, sir.

The CHAIRMAN. I suppose you did not see the Almighty at that time?

Mr. GILLESPIE. No, sir.

The CHAIRMAN. Was not the obligation a part of the ceremony itself?

Mr. GILLESPIE. How is that?

The CHAIRMAN. Was not the obligation a part of the ceremony?

Mr. GILLESPIE. I do not care to discuss that part of it at all, Mr. Chairman.

Senator OVERMAN. Are you a polygamist?

The CHAIRMAN. Just pardon me one minute, Senator. Will you state whether any penalty was attached if you divulged the obligation and disclosed what occurred?

Mr. GILLESPIE. I do not care to discuss it at all.

The CHAIRMAN. You will make no disclosure in regard to it?

Mr. GILLESPIE. No, sir.

The CHAIRMAN. Now, Senator, proceed.

Senator OVERMAN. Are you a polygamist?

Mr. GILLESPIE. I am not.

Senator OVERMAN. You never have been?

Mr. GILLESPIE. No, sir.

Mr. TAYLER. And the obligation you took to God at that time is superior to the obligation you owe this committee?

Mr. GILLESPIE. I prize it as such; yes, sir.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Whitaker.

TESTIMONY OF JOHN M. WHITAKER.

JOHN M. WHITAKER, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. WHITAKER. Forty-two.

Mr. VAN COTT. Where do you reside?

Mr. WHITAKER. In Salt Lake City.

Mr. VAN COTT. What is your occupation?

Mr. WHITAKER. I am at present engaged as the assistant secretary of the Utah Light and Railway Company.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. WHITAKER. Yes, sir.

Mr. VAN COTT. In which particular part of Salt Lake City do you reside?

Mr. WHITAKER. In what is called Sugar House Ward.

Mr. VAN COTT. Do you know Nichol Hood?

Mr. WHITAKER. Yes, sir.

Mr. VAN COTT. How long have you known him?

Mr. WHITAKER. Why, perhaps ten or twelve years.

Mr. VAN COTT. In Sugar House Ward what ecclesiastical position do you hold?

Mr. WHITAKER. I am one of the counselors to the bishop.

Mr. VAN COTT. Which counselor?

Mr. WHITAKER. The first counselor.

Mr. VAN COTT. What is the name of the bishop?

Mr. WHITAKER. Millan M. Atwood.

Mr. VAN COTT. What is the name of the second counselor?

Mr. WHITAKER. George Arbuckle.

Mr. VAN COTT. Do you know whether or not Nichol Hood was deposed or dropped from his position in the Sunday school?

Mr. WHITAKER. Yes, sir.

Mr. VAN COTT. What is the fact about it?

Mr. WHITAKER. That he was not deposed.

Mr. VAN COTT. Nor dropped?

Mr. WHITAKER. Nor dropped.

Mr. VAN COTT. Did he cease teaching in the Sunday school?

Mr. WHITAKER. He did.

Mr. VAN COTT. Was that voluntary or involuntary on his part?

Mr. WHITAKER. It must have been voluntary.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. Where is the testimony respecting this? I think that circumstance would have remained buried deeper than polygamy is buried if you had not called it up.

Mr. WORTHINGTON. That is impossible. The testimony is at page 866.

Mr. TAYLER. What is your name?

Mr. WHITAKER. John M. Whitaker.

Mr. TAYLER. What position do you hold?

Mr. WHITAKER. I am counselor to the bishop.

Mr. TAYLER. What is the bishop's name?

Mr. WHITAKER. Millan M. Atwood.

Mr. TAYLER. How long has he been bishop?

Mr. WHITAKER. About four years; between three and four years.

Mr. TAYLER. Where is he?

Mr. WHITAKER. In Sugar House Ward.

Mr. TAYLER. Where is this bishop?

Mr. WHITAKER. He is in Sugar House Ward.

Mr. TAYLER. Why did he not come in place of you?

Mr. WHITAKER. I do not know.

Mr. TAYLER. He would know better than you, would he not?

Mr. WHITAKER. Relative to what?

Mr. TAYLER. Relative to what he himself had done.

Mr. WHITAKER. He certainly would—what he had done.

Mr. TAYLER. Has he not a new polygamous wife?

Mr. WHITAKER. He has never told me so.

Mr. TAYLER. Is not that what people say about him?

Mr. WHITAKER. That is the first time I have ever heard it.

Mr. TAYLER. That is the first time?

Mr. WHITAKER. Yes, sir.

Mr. TAYLER. How many has he confessed to?

Mr. WHITAKER. He has only confessed to me that he has one.

Mr. TAYLER. Is he a polygamist?

Mr. WHITAKER. He is not a polygamist.

Mr. TAYLER. I would not want to do him an injustice even by a question if he is not reputed to be a polygamist.

Mr. WHITAKER. He is not a polygamist, nor is he reputed to be.

Mr. TAYLER. The charge was made that the bishop had done something to this man, Nichol Hood, not that you had. That was the occasion of my inquiry. That is all.

The CHAIRMAN. I suppose you have taken the endowments?

Mr. WHITAKER. Yes, sir.

The CHAIRMAN. When?

Mr. WHITAKER. About seventeen years ago.

The CHAIRMAN. Do you remember what they were?

Mr. WHITAKER. Mr. Chairman, I prefer not dealing with that question.

The CHAIRMAN. I say, you remember what they were?

Mr. WHITAKER. I may remember some things, but I would prefer not to go into that question at all.

The CHAIRMAN. You do not care to tell the committee what you remember?

Mr. WHITAKER. I prefer to decline, if you will permit me to.

The CHAIRMAN. That is all. Who is your next witness?

Mr. VAN COTT. Mr. Stohl.

TESTIMONY OF OLEEN N. STOHL.

OLEEN N. STOHL, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your age?

Mr. STOHL. I will be 40 next month.

Mr. VAN COTT. Where do you reside?

Mr. STOHL. In Brigham City.

Mr. VAN COTT. Is that in Box Elder County, Utah?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. How long have you resided there?

Mr. STOHL. Thirty-eight years.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. Do you hold any ecclesiastical position in the stake?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. What?

Mr. STOHL. Second counselor to the president of the stake.

Mr. VAN COTT. Who is the president of the stake?

Mr. STOHL. Charles Kelly.

Mr. VAN COTT. About what is his age?

Mr. STOHL. Sixty-four years.

Mr. VAN COTT. Who is the other counselor?

Mr. STOHL. Lucius A. Snow.

Mr. VAN COTT. Have you heard at different times of what has been called the electric-light matter in this case?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. Was it in part a contest between some person or persons who owned an interest in the electric-light works, and also the city of Brigham City?

Mr. STOHL. Did they contest it, did you say?

Mr. VAN COTT. Yes; I say was it a contest between those persons?

Mr. STOHL. Yes, sir; there was a controversy between them.

Mr. VAN COTT. In reference to that matter, did you in your ecclesiastical position ever hear of Stake President Kelly having a revelation on that subject?

Mr. STOHL. No, sir.

Mr. VAN COTT. Or of Mr. Kelly owning a thousand shares of electric-light stock?

Mr. STOHL. No, sir.

Mr. VAN COTT. Did you ever hear that Mr. Kelly claimed to have a revelation on that subject?

Mr. STOHL. No, sir.

Mr. VAN COTT. I suppose you read it in the newspapers?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. And in connection with this case?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. As a matter of fact, did Mr. Kelly advocate municipal ownership of the electric-light plant, or private ownership?

Mr. STOHL. He advocated the municipal ownership.

Mr. VAN COTT. Calling attention now to what has been referred to in this record as the dancing-pavilion matter, have you been present when that matter has been considered?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. Was anyone cut off from the church on account of it?

Mr. STOHL. No, sir.

Mr. VAN COTT. Was anyone disfellowshipped on account of it?

Mr. STOHL. No, sir.

Mr. VAN COTT. Were you present when the charge that was preferred against Mr. Kelly was brought?

Mr. STOHL. I was.

Mr. VAN COTT. That was tried before whom?

Mr. STOHL. Before the bishop of his ward first.

Mr. VAN COTT. And later before the high council?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. What was the result in both cases as to whether he had taken a thousand shares of stock in that private corporation, or was not that matter tried?

Mr. STOHL. That matter did not come up at all.

Mr. VAN COTT. As a matter of fact, was that fight exclusively between Mormons, or was it Mormons and Gentiles?

Mr. STOHL. It was between Mormons.

Mr. VAN COTT. Exclusively?

Mr. STOHL. Yes, sir.

Mr. VAN COTT. Do you know whether or not that matter has been amicably adjusted and settled among the Mormons?

Mr. STOHL. It has.

Mr. VAN COTT. Referring to the stake presidency, was that a matter that they would have taken charge of or have dealt with if advice had not been asked?

Mr. STOHL. No, sir.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. You say you heard the claim made that the president of your stake, Mr. Kelly, claimed that he had received a revelation about the electric-light business?

Mr. STOHL. I heard that report; yes, sir.

Mr. TAYLER. You never heard Kelly claim that he had had any such revelation?

Mr. STOHL. No, sir.

Mr. TAYLER. Was not that representation made to the city council—that he had had such a revelation?

Mr. STOHL. No, sir; not to my knowledge.

Mr. TAYLER. You are not a member of the city council?

Mr. STOHL. No, sir.

Mr. TAYLER. Do you hold any office in the city?

Mr. STOHL. No, sir.

Mr. TAYLER. You are nothing but a private citizen?

- Mr. STOHL. That is all.
- Mr. TAYLER. But you are a councilor to the president of the stake?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. And you live in Brigham City?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. Where also the president lives?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. Now, there was a considerable discussion over the question of an electric-light plant there?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. Whether it should be owned by the municipality or by private individuals? Was that the nature of the controversy?
- Mr. STOHL. No, sir.
- Mr. TAYLER. What was it?
- Mr. STOHL. The nature of the controversy came over an agitation of troubles that existed between the city and a private company.
- Mr. TAYLER. Between the city and a private company?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. And then was there some threat that the city would put in its own plant?
- Mr. STOHL. No, sir; the city had already decided to do that.
- Mr. TAYLER. Did it put it in?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. The high council, or the council rather—I mean the ecclesiastical council, Kelly, yourself, and your associate—did take up this subject, did you not?
- Mr. STOHL. You mean this electric-light matter?
- Mr. TAYLER. Yes.
- Mr. STOHL. Well, it came before all parties concerned, and the high council was in it.
- Mr. TAYLER. It came before the high council?
- Mr. STOHL. No, sir; the two contending parties and the high council together—
- Mr. TAYLER. And the high council together?
- Mr. STOHL. Considered the matter; yes, sir.
- Mr. TAYLER. How often did the high council sit with the contending parties?
- Mr. STOHL. Only once.
- Mr. TAYLER. That was with the city council, was it?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. And who else?
- Mr. STOHL. And with the parties who owned the private electric-light plant.
- Mr. TAYLER. Where did you meet?
- Mr. STOHL. We met at the high council office, where the high council usually have their meetings.
- Mr. TAYLER. What time in the day?
- Mr. STOHL. We met in the evening.
- Mr. TAYLER. Was all the city council there?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. And all of the other parties were there?
- Mr. STOHL. Yes, sir.
- Mr. TAYLER. In this ecclesiastical and civil council you settled this electric-light question for the people, did you?

Mr. STOHL. No, sir.

Mr. TAYLER. What did you do?

Mr. STOHL. The method of settling the dispute between the private company and the city was agreed upon at that point.

Mr. TAYLER. Was agreed upon at that point?

Mr. STOHL. At that place; yes, sir.

Mr. TAYLER. How did your high council come to get into this controversy? Did the city council ask it?

Mr. STOHL. No, sir.

Mr. TAYLER. Did the private corporation ask it?

Mr. STOHL. One of them; yes, sir.

Mr. TAYLER. Was that enough to do it?

Mr. STOHL. Why, it was simply a suggestion from him that it would be well to get together to adjudicate the trouble that was existing.

Mr. TAYLER. To adjudicate it? And so you got together and adjudicated, did you?

Mr. STOHL. We attempted to, but we did not do it.

Mr. TAYLER. You did not?

Mr. STOHL. No, sir.

Mr. TAYLER. Did you not get it settled?

Mr. STOHL. No, sir.

Mr. TAYLER. I thought you said it was settled—that you did get it settled?

Mr. STOHL. Not that matter; no, sir.

Mr. TAYLER. So you did succeed in getting this matter settled, did you not?

Mr. STOHL. We simply agreed upon a method or a means of arbitrating the matter, subject to the wishes of the citizens.

Mr. TAYLER. Precisely. That you did agree upon that night?

Mr. STOHL. That far; yes, sir.

Mr. TAYLER. And then it was carried out, was it not? The agreement was carried out? Arbitration did occur?

Mr. STOHL. Yes, sir; the arbitration occurred.

Mr. TAYLER. And the matter was all settled up amicably?

Mr. STOHL. No, sir; it was refused by the citizens.

Mr. TAYLER. They did not stand behind the high council. Is that right?

Mr. STOHL. Yes, sir.

Mr. TAYLER. You made a speech on the subject, did you not?

Mr. STOHL. I spoke in a mass meeting that was held in relation to that matter; yes, sir.

Mr. TAYLER. And it created a good deal of disturbance, did it not?

Mr. STOHL. Which, my speech?

Mr. TAYLER. Well, yes; the speech too.

Mr. STOHL. I think not.

Mr. TAYLER. Let us see about that. You say this:

"It went on a little further, the presidency of the stake learning that some high counselors did not seem to share our views in this matter. We called the high council together and presented the proposition to them as we have presented it to you up to this point. The high council indorsed what we had done and accepted of our work as being proper and in keeping with our position as citizens, as well as our position ecclesiastically."

Did you say that in substance in that speech?

Mr. STOHL. Well, I can not tell. I do not know what precedes that.

Mr. TAYLER. Then somebody in the audience said:

"Is that not mixing up church and state?"

Do you remember somebody saying that?

Mr. STOHL. I remember an interruption there; yes, sir.

Mr. TAYLER. Of that kind?

Mr. STOHL. Yes, sir.

Mr. TAYLER. And you said:

"How is that?"

And, by the same gentleman:

"Is that not mixing church and state?"

And you went on:

"I will go on and finish my statement and let the meeting judge that matter for themselves."

Then:

"Cries of the audience: Sit down; shut up; throw him out; let the man talk; hisses in the gallery."

Is that correct?

Mr. STOHL. No, sir; I do not remember it to that extent.

Mr. TAYLER. Do you not remember? You asked if your speech had made any disturbance, and my question is in answer to that question. The disturbance was not what I had in mind, but did not a disturbance of that kind occur?

Mr. STOHL. You mean that somebody spoke up that way?

Mr. TAYLER. Yes; that way—"Sit down; shut up; throw him out; let the man talk; hisses in the gallery?"

Mr. STOHL. I do not remember that much.

Mr. TAYLER. And that the chairman said:

"Mr. Stohl has the floor. Wait, Mr. Olsen, until Mr. Stohl gets through."

Do you remember Mr. Olsen?

Mr. STOHL. I do.

Mr. TAYLER. And did he interrupt in some polite way?

Mr. STOHL. He was the man; yes, sir.

Mr. TAYLER. And Mr. Olsen said:

"I just simply wish to state—"

"But the audience did not care for any statement from the gentleman. Cries of sit down, shut up, were again heard."

"By the Chair: Proceed. Mr. Stohl has the floor."

Is that right?

Mr. STOHL. I think he said that; yes, sir.

Mr. TAYLER. And you went on and said a good deal more that I will, perhaps, ask you about in a moment. Then did you go on and say, after something that you had said resulted in applause, and prolonged applause—you had applause frequently during the speech, did you not?

Mr. STOHL. I do not remember.

Mr. TAYLER. You went on and said this:

"In that high council meeting Peter F. Madson stated that he had talked with parties interested in this matter and that they all talked like reasonable men."

Do you remember something like that?

Mr. STOHL. I think I do; yes, sir.

Mr. TAYLER (reading):

"The city council seemed reasonable in their stand"——

That was at this meeting of the high council, was it not, at which the city council seemed reasonable?

Mr. STOHL. If that is purporting to be Peter F. Madson's remarks——

Mr. TAYLER. No; these are your remarks I am talking about:

"The city council seemed reasonable in their stand; the electric-light company is reasonable in what they say and said to me—what seems astonishing to me is that they can not get together. He said, 'I would suggest that the two parties be invited to meet together, and that we, as a council, meet with them as a balance wheel, and discuss these propositions in a friendly way and try to arrive at a basis for settlement.' Mr. Peters seconded that idea and the entire council acquiesced. It was unanimous, and Mr. Madson was authorized to inform the mayor and the council of our feelings and invite them to meet with us and Mr. J. M. Jensen, who was present, and notified the Brigham City Electric Light Company. The night following our conversation these individuals got together with nearly all the members of the high council, and there fairly and reasonably discussed the proposition from all sides; and after this thorough discussion, each one giving vent to his feelings and expressing himself as he felt, President Kelly asked Mr. Rich this question:

"Mr. Rich, are you willing, in order to settle this difficulty, to take the value of your old plant and the expenses that you have gone to in the upper end of the canyon and pull out?"

"Mr. Rich assented to that. Each of the members of the Brigham city council was asked the same question and they agreed. They said they were willing, with the understanding that the proposition was legal and should be submitted to the people and be ratified by them."

Is that about right?

Mr. STOHL. I think, in substance; yes, sir.

Mr. TAYLER. I do not want to go into that further just now. You had a controversy about the dance hall there?

Mr. STOHL. Yes, sir.

Mr. TAYLER. How did it arise? Perhaps we can get along faster if I ask you a question or two. This dance hall came in competition, did it not, with the opera house?

Mr. STOHL. In a sense it did; yes, sir.

Mr. TAYLER. Did not President Kelly complain of it at the Sunday school conference, that some of the young men had erected a dancing pavilion in direct competition with the opera house and in opposition to the wishes of the stake presidency and the high council?

Mr. STOHL. No, sir.

Mr. TAYLER. He did not say that?

Mr. STOHL. No, sir; he did not say that.

Mr. TAYLER. And that: "We will fight it to the bitter end?" Is that right?

Mr. STOHL. I do not remember that.

Mr. TAYLER. He did not say that?

Mr. STOHL. No, sir.

Mr. TAYLER. Did you have this subject up before the stake presidency and the counselors?

Mr. STOHL. Yes, sir.

Mr. TAYLER. What about? What was the matter?

Mr. STOHL. Why the parties themselves brought it up. A few of the parties that built the hall came to the president of the stake and made inquiries in relation to his wishes on that matter, and that led up to the matter coming before the high council. They came there of their own will and choice, anxious to hear the wishes of the council in relation to that matter, and they were expressed to them.

Mr. TAYLER. It was a mere arbitration, was it, in which you acted to help out?

Mr. STOHL. No, sir. This was before they built the dancing pavilion that they came to the council and inquired of their wishes in relation to the matter.

Mr. TAYLER. How did your council, the president of the stake and you two counselors, come to get into conflict with the young men who built this pavilion?

Mr. STOHL. Why, the young men who built the pavilion came to the president of the stake and presented a proposition to him and asked his wishes in relation to that matter.

Mr. TAYLER. That is, about building this?

Mr. STOHL. Yes, sir.

Mr. TAYLER. What did the president of the stake have to do with it?

Mr. STOHL. Why, he had nothing to do with it, only that they came to him and inquired about it.

Mr. TAYLER. That is, they inquired whether they might build a building or not?

Mr. STOHL. Well, the proposition might be a little clearer if I stated that it has been rulable in some parts of our stake that the amusements were conducted under the direction of the authorities of the ward. These young men thoroughly understood that situation, and, desiring to put up another hall, they went and presented the matter to him, and inquired in relation to his wishes on that matter.

Mr. TAYLER. Exactly; and they learned his wishes, did they?

Mr. STOHL. Yes, sir.

Mr. TAYLER. And did not comply with them?

Mr. STOHL. Yes, sir.

Mr. TAYLER. Did they?

Mr. STOHL. They did not comply with them.

Mr. TAYLER. That is, before they built it?

Mr. STOHL. Well, the matter went further and was considered by the high council, those brethern being there, the young men coming there and desiring to get the views of the high council, and the high council in the interests of peace and harmony in the city there counseled them not to erect it.

Mr. TAYLER. Yes.

Mr. STOHL. Then, in opposition to that, they erected the dancing academy.

Mr. TAYLER. Exactly; and the high council resented that?

Mr. STOHL. Yes, sir.

Mr. TAYLER. Because they had not taken counsel on the subject?

Mr. STOHL. Yes, sir; they did not carry out the counsel that was given them.

Mr. TAYLER. Which was given in good faith, for the purpose of preventing trouble in the community. Is that right?

Mr. STOHL. Yes, sir.

Mr. TAYLER. You had no personal interest in this dance hall, either of them, had you?

Mr. STOHL. No, sir.

Mr. TAYLER. President Kelly had no interest in the opera house, had he?

Mr. STOHL. No, sir.

Mr. TAYLER. And personally it did not make any difference to him whether there was any competition or not?

Mr. STOHL. Not individually; no, sir.

Mr. TAYLER. It was only rulable, as you say, that the church authorities should have charge of the amusement places?

Mr. STOHL. Yes, sir; they are very much interested in furnishing proper amusement for young people.

Mr. TAYLER. Then at a certain stage in the proceedings this notice was sent out by Mr. Kelly and you two—Mr. Kelly, Mr. Snow, and yourself—under date of August 30, 1903:

“To the Latter-Day Saints of Box Elder Stake of Zion:

“In view of the statement made and published by Elders Chris Christensen and C. O. Anderson regarding the summer pavilion matter, we hereby withdraw our objection to the saints patronizing the pavilion as long as proper decorum is preserved in and about said pavilion.”

Was that the same subject or another subject?

Mr. STOHL. That was part of the subject; yes, sir.

Mr. TAYLER. Then did you have trouble about that with them?

Mr. STOHL. Yes, sir.

Mr. TAYLER. In the winter?

Mr. STOHL. Yes, sir.

Mr. TAYLER. What then occurred?

Mr. STOHL. The trouble came from their side of the proposition. Some of the bishops of the ward held there that in the interest of the young people it was proper for the local authorities to direct in the amusements, and that matter was submitted to some of the officers in the wards and these gentlemen took exception to that point.

Mr. TAYLER. It was finally compromised, was it not, by their paying something, or agreeing to pay something?

Mr. STOHL. Only in this way: When the settlement was entered into it was decided that the opera house should be closed—that is, the house that belonged to the four wards—and all the patronage should be thrown to the amusement hall of these individuals, and in lieu of closing the opera house they were to pay them a part of their net earnings.

Mr. TAYLER. I want to cross-examine this witness further, but I have not the data at hand. It is at the printer's, if it is the data I had, and it is in that unfortunate shape that the typewritten matter and the printed matter both are inaccessible.

Mr. VAN COTT. Mr. Stohl, about what is the percentage of Mormons in Brigham City?

Mr. STOHL. I should say 90 per cent.

Mr. VAN COTT. You mentioned about the city council and the stake presidency meeting on this matter. How did they come to meet, and

I will get you to tell the details further on. I was endeavoring to abbreviate the matter, but it is probably better to get it in detail. How did they come to meet?

Mr. STOHL. The private party claimed that they had prior ownership of the waters of Box Elder Creek, from which source the power for the two electric-light plants was to be furnished. The city disputed that claim and claimed that they had the prior right to the waters of the creek. Considerable discussion arose among the people in relation to this matter, and one of the parties interested in the private electric-light plant came himself to President Kelly and myself and asked what he could do in the matter to settle the difficulty that had arisen. President Kelly told him that he had no advice to give on that point, but suggested that their company and the city council should get together and see if they could not amicably settle the controversy that had arisen. He did not carry out that suggestion, and the discussion and the agitation continued.

Later on another member of the private company called on me, and at the time he was conversing, Mr. President Kelly happened in. He said that he was a citizen of Brigham City and very much disliked the contention that was going on, and would like to have the trouble adjudicated; that whatever would be considered right and proper in the matter he would be pleased to accept it, and pull out and give the city full sway in perfecting their electric light plant.

Mr. VAN COTT. Is that all?

Mr. STOHL. After that conversation the matter was mentioned to the mayor of the city. The mayor expressed himself to the effect that he would be very highly pleased if some amicable settlement could be entered into. He expressed his willingness to meet with members of that company and have a talk with them, and see whether they could agree on some point of settlement. He stated, however, that in case he had such a meeting with them he would want the electric light committee of the city council to be there with him. That matter was mentioned to the other parties, and they were agreeable to that, and the two parties met—came together.

Mr. VAN COTT. Now, starting right there, Mr. Stohl, without going further into the details, when that matter was gone over with all those parties was it submitted to all the people in Brigham City for ratification or rejection?

Mr. STOHL. It was.

Mr. VAN COTT. Did the people, of whom you say 90 per cent were Mormons, ratify what had been agreed upon, or did they reject it?

Mr. STOHL. They rejected it.

Mr. VAN COTT. In all of that talk was there any discussion to the effect that Mr. Kelly either said that he had had a revelation on the subject or pretended to have a revelation, or did anyone claim for him that there was a revelation on that subject?

Mr. STOHL. I never heard of it until I saw it reported in the paper.

Mr. WORTHINGTON. Was that after this investigation?

Mr. STOHL. I think it was about the time that the investigation began here.

Mr. VAN COTT. The testimony on this subject was that Kelly said he had a revelation from God that the city ought to be lighted by a

private company of which he was to be president. In the discussion was there anything of that kind took place at all?

Mr. STOHL. No, sir.

Mr. VAN COTT. Did Kelly favor one side or the other? Was he in favor of a private company or a public company?

Mr. STOHL. He was in favor of the city owning an electric-light plant.

Mr. VAN COTT. So that instead of his saying that he had a revelation from God that it was to be done by a private company of which he was to be president, he favored the proposition that the municipality should do the business?

Mr. STOHL. Yes, sir; at all times.

Mr. VAN COTT. And said nothing about a revelation?

Mr. STOHL. No, sir; I never heard it.

Mr. TAYLER. I have found what I wanted to look at. It is printed at page 810 of the record. Do you remember your high council making this order:

"Inasmuch as Brother C. O. Anderson appeared on behalf of himself and Brother Chris Christensen in regard to the dancing pavilion which they are erecting, and presented certain propositions before the council"—

That is, your high council—

"the council, after due consideration, decided that they could not rescind its former decision given on this question. It was also the advice and counsel of the meeting that these brothers cease their work on said pavilion, and that they do not use it for dancing purposes, but that said pavilion be removed and the material in its construction be disposed of."

Mr. STOHL. I think there was something to that effect; yes, sir.

Mr. TAYLER. And then later on, which perhaps is what you have said yourself, the president stated:

"They [that is, these people who were building this new hall] ought to have abided by the counsel that was given them and avoided the controversy which has arisen out of their disobedience to counsel."

That is practically what you said a while ago, is it not?

Mr. STOHL. I think so.

Mr. TAYLER. And then that last February you yourself stated:

"The authorities of this stake must dictate and control, and members of the church must take a stand one way or the other. If you bishops have any officers who will not carry out 'counsel' we want you to drop them, and even members of the high council will be dropped. The church has authority in this matter. This is no longer an opera-house fight, but a church fight. The new dancing hall (the academy of music and dancing) has been built in direct opposition to this authority."

Did you say that in substance?

Mr. STOHL. I do not remember that I said as fully as that. I think there is something more added than I said.

Mr. TAYLER. That is the substance of it, is it?

Mr. STOHL. But it was referring to this policy that was adopted there in relation to the amusements, and the proposition was on the officers sustaining that policy.

Mr. TAYLER. And that finally this is what occurred, and you all signed an agreement—that is to say, the high council and a committee of the young men interested in this dancing academy—to this effect:

“OFFICE OF THE PRESIDENCY OF THE
“BOX ELDER STAKE OF ZION,
“July 20, 1904.

“We, the undersigned, mutually agree that the dancing in the Box Elder Academy of Music and Dancing be conducted under the direction of the stake amusement committee, appointed by the presidency of the stake, and that the presidency of the stake will encourage the patronage of the people to that institution under proper rules and regulations.

“And the directors of the Box Elder Academy of Music and Dancing agree that 25 per cent of the net earnings be turned into the stake treasury to be disbursed as they see fit for the benefit of the church in the Box Elder Stake of Zion.”

Was not that the final agreement that you entered into with these young men?

Mr. STOHL. Yes, sir; but that was not signed by the high council.

Mr. TAYLER. It was signed by Charles Kelly, Lucious A. Snow, Oleen N. Stohl, stake presidency.

Mr. STOHL. Yes, sir.

Mr. TAYLER. Not by the high council; no, but by the stake presidency?

Mr. STOHL. Yes, sir.

Mr. TAYLER. That is all.

Mr. VAN COTT. Mr. Stohl, these amusements that have been referred to in the different questions, both by Mr. Tayler and myself—state whether those were for the entertainment of the Mormon people.

Mr. STOHL. They were.

Mr. VAN COTT. That is all.

The CHAIRMAN. Mr. Stohl, are you a member of the Mormon Church? I suppose you are?

Mr. STOHL. Yes, sir.

The CHAIRMAN. You have taken the endowments?

Mr. STOHL. I have.

The CHAIRMAN. You are not a polygamist and never have been?

Mr. STOHL. No, sir.

The CHAIRMAN. When did you take the endowments?

Mr. STOHL. In July of 1889.

The CHAIRMAN. Do you remember the ceremony?

Mr. STOHL. Not very distinctly; no, sir.

The CHAIRMAN. Can you remember any portion of it?

Mr. STOHL. Well, I may remember some parts of it, but nothing that I can give an intelligent description or account of it.

The CHAIRMAN. Will you state what portion you can remember?

Mr. STOHL. I would prefer not to do that, Mr. Chairman.

The CHAIRMAN. Why not?

Mr. STOHL. Because of my own feelings in relation to that matter. I have conscientious scruples on that point.

The CHAIRMAN. Was there during the ceremony at any time a penalty imposed if you should disclose it?

Mr. STOHL. I would prefer not to discuss that matter.

The CHAIRMAN. If it is a fact that a penalty was imposed, is it that which deters you from disclosing it?

Mr. STOHL. No, sir.

The CHAIRMAN. That is not it?

Mr. STOHL. No, sir.

The CHAIRMAN. Would this refresh your recollection as to what the ceremony was—you have stated, however, you do not want to give it, and I will withdraw that question. I will ask you if you remember this:

“Behold, now saith the Lord, the wicked and ungodly, they have slain the prophet Joseph, persecuted the saints, and mocked at My priesthood.”

Mr. STOHL. I do not remember anything about that.

The CHAIRMAN (reading):

“Therefore, O Israel, arise in thy strength, go forth and revenge the wrongs of My people on this perverse generation.”

Mr. STOHL. I have no recollection of that.

The CHAIRMAN. You say that was not said?

Mr. STOHL. I have no recollection of it.

The CHAIRMAN (reading):

“They have spilled the blood of the saints and wasted their substance; therefore let their blood be spilled and let their substance be wasted.”

Mr. STOHL. I have no recollection of that.

The CHAIRMAN. Do you say it did not occur?

Mr. STOHL. I do not remember anything of that.

The CHAIRMAN (reading):

“Let the curse of God rest on this nation and Government.”

Mr. STOHL. I do not remember of that ever having been stated.

The CHAIRMAN. And nothing in one of these obligations in the way of a promise to avenge the death of Joseph Smith on this generation?

Mr. STOHL. I have no recollection of that.

The CHAIRMAN. And to cherish enmity toward the United States Government?

Mr. STOHL. No, sir.

The CHAIRMAN. Anything of that kind?

Mr. STOHL. No, sir.

The CHAIRMAN. You do not remember?

Mr. STOHL. No, sir.

The CHAIRMAN. You would not say that that is not a part of the ceremony?

Mr. STOHL. I do not believe it is.

The CHAIRMAN. Well, you do not know?

Mr. STOHL. I do not remember that that had anything to do with it.

The CHAIRMAN. That is all. Who is your next?

Mr. VAN COTT. Mr. Eldredge.

TESTIMONY OF J. U. ELDREDGE, Jr.

J. U. ELDREDGE, Jr., being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name, Mr. Eldredge?

Mr. ELDREDGE. J. U. Eldredge, jr.

Mr. VAN COTT. What is your age?

Mr. ELDREDGE. Thirty years.

Mr. VAN COTT. Where do you reside?

Mr. ELDREDGE. Salt Lake City, Utah.

Mr. VAN COTT. Do you belong to the Mormon Church?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Do you hold any official position in Salt Lake County?

Mr. ELDREDGE. Yes, sir; I am county clerk of Salt Lake County.

Mr. VAN COTT. In a general way, you are clerk of the court?

Mr. ELDREDGE. Yes, sir; ex officio clerk of the third district court.

Mr. VAN COTT. And you are also clerk of the board of county commissioners, who administer civil affairs in the county?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Have you been connected with politics in Salt Lake County?

Mr. ELDREDGE. Yes, sir; ever since the year 1898.

Mr. VAN COTT. Have you been active or otherwise?

Mr. ELDREDGE. I have been active.

Mr. VAN COTT. To which party do you belong?

Mr. ELDREDGE. The Republican party.

Mr. VAN COTT. Will you give the committee a general idea of in what way you have been connected with the Republican party?

Mr. ELDREDGE. I was elected as secretary of the Republican county committee in the general election of 1898. I was reelected as secretary of that committee in the Presidential election of 1900, and reelected in the general election of 1902. Then I was elected chairman of the Salt Lake County Republican committee in the Presidential election of 1904.

Mr. VAN COTT. Now, taking the three elections in which you were secretary, before 1904, who was the chairman?

Mr. ELDREDGE. Mr. Dennis C. Eichnor.

Mr. VAN COTT. Was he a Gentile or a Mormon?

Mr. ELDREDGE. He was a Gentile.

Mr. VAN COTT. So that you worked under him, did you?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. In the last election you were the chairman?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Had Mr. Eichnor died in the meantime?

Mr. ELDREDGE. Yes, sir; he died last April.

Mr. VAN COTT. Are you acquainted with many Mormon people in Salt Lake City and County?

Mr. ELDREDGE. Yes, sir; a great many.

Mr. VAN COTT. What is your opinion as to the sentiment among the Mormon people in regard to the contracting of polygamous marriages since the issuance of the manifesto?

Mr. ELDREDGE. The belief is very prevalent that there have been none.

Mr. VAN COTT. But what is the sentiment as to whether there should be a practice of contracting those new marriages or not?

Mr. ELDREDGE. I should say the sentiment is decidedly against it.

Mr. VAN COTT. I suppose you have heard them discuss that matter, have you?

Mr. ELDREDGE. Yes, sir; a great many of them.

Mr. VAN COTT. In which ward do you belong?

Mr. ELDREDGE. I live in the Fourth Ward.

Mr. VAN COTT. Do you know the number of polygamists, for instance, in your ward?

Mr. ELDREDGE. I believe there are three—three that I know of.

Mr. VAN COTT. And about what is the population of that ward?

Mr. ELDREDGE. Probably 500.

Mr. VAN COTT. What would be about the percentage of Mormons?

Mr. ELDREDGE. I wish to change that answer. I think there are probably 700 people living in that ward. I should judge about 400 of them would be Mormons.

Mr. VAN COTT. Do you know how many of those, if any, live in unlawful cohabitation?

Mr. ELDREDGE. I do not know of any.

Mr. VAN COTT. Calling attention to politics, have you worked with the voters since 1898, or have you been confined to organization and supervision?

Mr. ELDREDGE. I have been mostly engaged in organization and supervision. Still, I have come in contact with a great many thousand voters, personally.

Mr. VAN COTT. And worked with them?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. How have you found the Mormon voters in reference to being constant to party lines?

Mr. ELDREDGE. I would say that they were more constant to their party lines than the non-Mormons.

Mr. VAN COTT. Have you brought a table showing the vote for several years back?

Mr. ELDREDGE. Yes, sir; on Congressmen I have.

Mr. VAN COTT. In Salt Lake County?

Mr. ELDREDGE. In Salt Lake County; yes, sir.

Mr. VAN COTT. Have you it by districts?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Does that substantiate the statements you have made?

Mr. ELDREDGE. Yes; practically so.

Mr. VAN COTT. What do you find to be the sentiment of the Mormon voters as to resenting or approving suggestions that the Mormon Church is interfering in politics?

Mr. ELDREDGE. The Mormon boys I have talked to resent it very strenuously.

Mr. VAN COTT. How do you find the Mormon voters as to their independence or not in politics?

Mr. ELDREDGE. I find that they are very independent, and they show it on every occasion.

Mr. VAN COTT. Do you know H. S. Tanner?

Mr. ELDREDGE. I do.

Mr. VAN COTT. Were you present at the last judicial convention held in Salt Lake County to nominate district judges?

Mr. ELDREDGE. Yes, sir; I was.

Mr. VAN COTT. If the Mormon delegates in the judicial convention had voted for Mr. Tanner for district judge, would he have had a majority of the votes?

Mr. ELDREDGE. Yes, sir; he would have been nominated.

Mr. VAN COTT. And did the Mormons oppose him; I mean in part?

Mr. ELDREDGE. Yes, sir; partly.

Mr. VAN COTT. For what reason did they oppose him?

Mr. ELDREDGE. On the rumor that was current that he was a polygamist.

Mr. VAN COTT. And was that rumor to the effect that it was reported that he had gone into polygamy since the manifesto?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. I suppose you know about the appointments that are made by the county officers in Salt Lake County?

Mr. ELDREDGE. In a general way I do; yes, sir.

Mr. VAN COTT. Were you active in the last city election in Salt Lake?

Mr. ELDREDGE. I was.

Mr. VAN COTT. And was the result there in your opinion attributable to the Mormon Church?

Mr. ELDREDGE. No, sir; it was not.

Mr. VAN COTT. Calling attention to the Republican city nominees in that election, were they all defeated?

Mr. ELDREDGE. All those on the general ticket were. We elected our council ticket in the various precincts.

Mr. VAN COTT. I called attention, I believe, to the city ticket. Now, calling attention to what you call the council ticket, are they elected by precincts?

Mr. ELDREDGE. Yes; they are elected by precincts.

Mr. VAN COTT. And did the Republicans elect the city council—that is, a majority of it?

Mr. ELDREDGE. Yes; they elected in all the Republican precincts.

Mr. VAN COTT. To make that clear, general city officers would be voted for by all the city, would they not?

Mr. ELDREDGE. Yes, sir; by each person residing in the entire city.

Mr. VAN COTT. A city councilman would be voted for, would he, separately in each precinct in the city?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Each precinct has three councilmen, has it not?

Mr. ELDREDGE. Yes.

Mr. VAN COTT. There are five precincts?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. That makes up the city?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. How many Republicans were elected?

Mr. ELDREDGE. Nine.

Mr. VAN COTT. Six, then, were Democrats?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Did the American party have a city ticket in the last election?

Mr. ELDREDGE. No, sir; not a city ticket.

Mr. VAN COTT. But in the last general election?

Mr. ELDREDGE. But they had a county ticket and a State ticket. That is, they had a ticket in Salt Lake County, and they had a State ticket also.

Mr. VAN COTT. Did the Salt Lake Tribune, in that election, support the American ticket or the Republican ticket?

Mr. ELDREDGE. It supported the American party ticket.

Senator OVERMAN. Did you say that was the last election, Mr. Van Cott?

Mr. VAN COTT. Yes, sir; the Presidential election. In that election did the American party have any Presidential electors on its ticket?

Mr. ELDREDGE. No, sir; it did not.

Mr. VAN COTT. Have you ever been in a convention when John Henry Smith has nominated anyone for an office?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Do you recall any instance?

Mr. ELDREDGE. Yes, sir; he either placed in nomination or seconded the nomination of the county clerk who was nominated in the year 1898.

Mr. WORTHINGTON. In Salt Lake?

Mr. ELDREDGE. Yes, sir.

Mr. VAN COTT. Was his nomination successful, or not?

Mr. ELDREDGE. It was unsuccessful.

Mr. VAN COTT. Do you know whether or not a majority of the convention would be made up of Mormons or Gentiles?

Mr. ELDREDGE. I think it was very evenly divided.

Mr. VAN COTT. Take the witness.

Mr. WORTHINGTON. There is one question I think Mr. Eldredge ought to be asked, notwithstanding his youthful appearance. That is, are you a polygamist?

Mr. ELDREDGE. No, sir.

Mr. TAYLER. When was this convention at which Tanner was not nominated?

Mr. ELDREDGE. That was held in May, 1904, on the 17th day.

Mr. TAYLER. And you think he was not nominated because there was a rumor afloat that he was a polygamist?

Mr. ELDREDGE. I think that was substantially the fact of the case.

Mr. TAYLER. A rumor afloat? Do you mean it had taken fourteen years for a rumor to get into circulation to influence the convention, or was it a rumor that he had taken a new polygamous wife?

Mr. ELDREDGE. A rumor that he had taken a wife since the manifesto.

Mr. TAYLER. How many? Several, was it not?

Mr. ELDREDGE. Yes, there was a rumor, I think, of several. I had heard it talked of that there were several—two or three.

Mr. TAYLER. You think that in a political convention, in either party, in the city of Salt Lake, it would not help a man to have the reputation of having taken two or three fresh polygamous wives since the manifesto?

Mr. ELDREDGE. I should certainly think it would defeat his nomination, at the present time, in either political party.

Mr. TAYLER. I have no doubt it would. That is all.

Mr. VAN COTT. That is all.

POSTMASTERS IN IDAHO.

Mr. WORTHINGTON. Mr. Chairman, we have here a Senate public document which is of very great interest in this connection, and we think it ought to go in the record. It is a report recently made

as to postmasters in Idaho living in polygamy. The investigation has been made by an officer of the Government in a disinterested and nonpartisan way. It contains a great deal that has been gone over by the witnesses in this case, and we would like to have it printed as a part of the record for convenience to counsel and the committee and the Senate.

The CHAIRMAN. It is a public document?

Mr. WORTHINGTON. Yes.

The CHAIRMAN. Mr. Tayler, have you any objection to it?

Mr. TAYLER. No, I think not. Of course it is just as fresh as this investigation is, and fresher, is it not? It is a new public document just printed?

Mr. WORTHINGTON. Yes, it has been printed recently. On January 4, 1905, the report of the Postmaster-General was made.

Mr. TAYLER. I have a legislative record against this thing of duplicating public documents that would prevent me from consenting to its going in here.

Senator DUBOIS. Does it state how many polygamists resigned their offices between the date of the introduction of my resolution and the report of the commissioners?

Mr. WORTHINGTON. What I have been most concerned about, Mr. Chairman, was the report made showing the situation in Idaho in reference to polygamy.

Senator DUBOIS. Does the report show the number of polygamists who resigned between the date of the introduction of the resolution and the report?

Mr. WORTHINGTON. I think not.

The CHAIRMAN. We will let that pass for the present.

Mr. WORTHINGTON. Very well.

Senator DUBOIS. If the report goes in, I think the fact I have referred to ought to go in also.

MARRIAGE LICENSE OF CHARLES E. MERRILL.

Mr. WORTHINGTON. Here is another matter to which I want to call the attention of the committee. We wish to offer this paper in evidence. It is the license for the marriage of Charles E. Merrill, the son of Apostle Merrill, to Chloe Hendricks. As to this son of Apostle Merrill, it has been shown that he took a wife after the manifesto, his legal wife being dead, and there was some suggestion that he did it without taking out a license. We offer the license for the purpose of showing that that is not correct.

Mr. TAYLER. I think he was probably asked if he would produce it. That might as well go in.

The CHAIRMAN. Let it go in.

Mr. TAYLER. We knew this when we examined him. There was no claim on our part that he did not—

Mr. WORTHINGTON. What you asked on the record, or what was said rather, tended to convey the intimation to our minds, whatever you may have intended, that he did not take out the license.

Mr. TAYLER. I see no objection to its going in.

The paper referred to is as follows:

The people of the Territory of Utah, County of Cache. Marriage license.

To any person legally authorized to solemnize marriage, greeting:

You are hereby authorized to join in holy matrimony Mr. Charles E. Merrill, of Richmond, in the county of Cache, and Territory of Utah, of the age of 25 years, and M. Chloe Hendricks, of Richmond, in the county of Cache, and Territory of Utah, of the age of 18 years.

Witness my hand as clerk of the probate court and the seal of said court hereto affixed at my office in Logan City, in said county, this 4th day of March, A. D. 1891.

[SEAL.]

C. D. W. FULLMER,
Clerk of the Probate Court.

TERRITORY OF UTAH,

County of Cache, ss:

I hereby certify that on the 4th day of March, in the year of our Lord 1891, at Logan, in said county, I, the undersigned, an elder of the Church of Jesus Christ of Latter-Day Saints, did join in the holy bonds of matrimony, according to law, Charles E. Merrill, of the county of Cache, Territory of Utah, and Chloe Hendricks, of the county of Cache, Territory of Utah. The nature of the ceremony was according to the rites and ordinances of said church, and was a present mutual agreement of marriage between the parties for all time.

We were married as stated in this certificate, and are now husband and wife.

CHAS. EDWARD MERRILL, *Groom.*
CHLOE HENDRICKS, *Bride.*

In the presence of—

N. C. EDLEFSEN, *Witness.*

J. Z. STEWART, *Witness.*

M. W. MERRILL,
Elder of the Church of Jesus Christ of Latter-Day Saints.

STATE OF UTAH,

County of Cache, ss:

I, J. N. Larsen, county clerk in and for the county of Cache, State of Utah, do hereby certify that the foregoing is a full, true, and correct copy of the marriage license and marriage certificate of Charles E. Merrill and Chloe Hendricks, as the same appears on file and of record in my office.

In witness whereof, I have hereunto set my hand and affixed my official seal, this 7th day of April, 1904.

[SEAL.]

J. N. LARSEN,
County Clerk.

MARRINER W. MERRILL.

Mr. WORTHINGTON. Now, Mr. Chairman, I want to offer the affidavit of Herbert A. Adamson, a physician, that he is a practicing physician in the county of Cache, and knows Apostle Marriner W.

Merrill; that he has examined him and finds he is suffering with the disease known as diabetes; and that it is impossible for him to come to Washington.

The CHAIRMAN. Put it in.

The paper referred to is as follows:

In the Senate of the United States. In the matter of Reed Smoot.

STATE OF UTAH,

County of Cache, ss:

Herbert A. Adamson, M. D., being first duly sworn, deposes and says that he is a practicing physician, residing at Richmond, Utah, in said county; that he is acquainted with Apostle Marriner W. Merrill, and after a careful examination of him finds that he is in very feeble health and suffering from diabetes.

Affiant further says that in his opinion it would jeopardize the life of said Marriner W. Merrill to attempt to make the journey to Washington, D. C., to testify in the investigation of Senator Reed Smoot.

HERBERT A. ADAMSON, M. D.

Subscribed and sworn to before me this 7th day of January, A. D. 1905.

[SEAL.]

S. W. HENDRICKS,
Notary Public.

My commission expires June 5, 1907.

Mr. WORTHINGTON. I want to follow that with the affidavit of Apostle Merrill himself that he is not acquainted with and does not know of the existence of any such person as Huldah Olson, who was referred to in the testimony of Charles Mostyn Owen. Mr. Owen testified that the repute is that Apostle Merrill has married Huldah Olson since the manifesto, and we ask to put in his affidavit, after showing he is not able to come here, to show that he does not know any such person.

The CHAIRMAN. Do you think that is competent?

Mr. WORTHINGTON. It is perfectly competent for the committee to receive it if it wishes to. There have been cases disposed of in this tribunal. Mr. Chairman, solely on affidavits—

The CHAIRMAN. Of course, this is purely an investigation, but there is no opportunity to cross-examine the party at all.

Mr. WORTHINGTON. There was offered in evidence on the other side—and it is in the record now—after very considerable argument on our side against it, the affidavit of a man named Bowen, who claimed he had been deposed from his office by his superior after some alleged infractions of the rules; and it was stated by Senator McComas that that would go in and that Mr. Bowen would be called as a witness. Mr. Bowen was not called as a witness, nor has any excuse or reason for not calling him or subpoenaing him been offered, so far as we know.

In that same connection, Mr. Chairman, before the committee passes upon this—and perhaps this is a matter of such importance, taking it all in all, on the subject, that the committee might perhaps think it better to have a full attendance of the committee in passing

upon it, because I have a suggestion to make which I think the committee ought to act upon——

The CHAIRMAN. May I interrupt you, Mr. Worthington?

Mr. WORTHINGTON. Certainly.

The CHAIRMAN. You have several papers you desire to present, and there is only a small number of the members of the committee here. If you have other witnesses, can you not proceed with them to-night, and then in the morning we will consider the other matters?

Mr. WORTHINGTON. I would like to say now, however, in order that the committee may have this matter under consideration, and in order that counsel for the protestants may also, that we have here an affidavit of Bathsheba Smith, who has been referred to here, that she is cognizant of the fact that she took her endowments during the lifetime of the Prophet Joseph Smith, jr., and that they have remained unchanged. We have also a certificate of her physician that she is over 80 years old, and that it is utterly impossible for her to come here; and we are going to suggest that these affidavits be filed and that upon them this committee shall have a commission issued to some person—if the committee decide that shall be done, counsel will have no trouble about agreeing upon the commissioner, I suppose—and that the commissioner there may take her deposition, all the parties here having the right to be present for the purpose of cross-examination and examination. We want to take the deposition of this old lady and the deposition of Apostle Merrill at his bedside.

The committee will perceive that these are matters of some consequence, because if it be true that these endowment ceremonies were introduced by the Prophet Joseph Smith and that they have remained unchanged, as many witnesses have testified, then it is impossible that those ceremonies could have contained any allusion to the supposed vengeance for the taking of the life of Joseph Smith, because it could never have referred to vengeance for his murder when he was alive.

Then there has been testimony by the gentleman who sits across the table that it is reputed that Apostle Merrill has taken a plural wife, Huldah Olson, since the manifesto. There has been some considerable testimony based upon that, and a good many allusions by my Brother Tayler to the fact that all the apostles, or a majority of the apostles, have taken plural wives. In justice to this old man, who is on a bed from which he will never recover, his deposition should be taken in some way and put into this record to show that that is not true.

The CHAIRMAN. In the morning we will be able to dispose of that matter.

Mr. TAYLER. These have been all present matters of interest since last spring.

The CHAIRMAN. Who is your next witness, Mr. Worthington?

Mr. WORTHINGTON. We are not prepared with any other witness at present, Mr. Chairman. I can say, almost certainly, that we will conclude this matter to-morrow so far as we are concerned.

Mr. TAYLER. As far as we are concerned, if that is your view, I think we will probably save time by waiting until to-morrow.

Senator OVERMAN. Have you any witness in reply, Mr. Tayler?

Mr. TAYLER. No; unless it is incidental merely—nothing to take any time.

The CHAIRMAN. You think you will be able to conclude to-morrow, gentlemen?

Mr. WORTHINGTON. Yes; there may be some odds and ends of documentary evidence or something of that kind; but so far as the witnesses are concerned, we will close the matter to-morrow.

Mr. VAN COTT. Certainly, I should think, by Wednesday noon.

Mr. WORTHINGTON. Of course something will depend on the cross-examination, which we can not anticipate.

Mr. TAYLER. You know you can depend on the cross-examination being brief.

The CHAIRMAN. You think it will be impossible to go on further now?

Mr. WORTHINGTON. Yes. It would be an injustice to ourselves and to the witness and the committee to put a witness on without some orderly arrangement in our own minds as to what we want to ask him.

The CHAIRMAN. I call the attention of counsel to the fact that Mr. Tayler, who represents the protestants, must assume his duties as a Federal judge next Tuesday, and it is important that this matter should be brought to a conclusion this week. If counsel desire to be heard on either side, it will be well to move along as rapidly as you can.

The committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 13 minutes p. m.) adjourned until Tuesday, January 24, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 24, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Foraker, McComas, Depew, Hopkins, Dubois, and Overman; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

TESTIMONY OF FRANK B. STEPHENS.

FRANK B. STEPHENS, being duly sworn, was examined, and testified as follows:

Mr. VAN COTT. What is your age?

Mr. STEPHENS. Forty-nine.

Mr. VAN COTT. Where do you reside?

Mr. STEPHENS. In Salt Lake City.

Mr. VAN COTT. Where were you born?

Mr. STEPHENS. In the State of Maine.

Mr. VAN COTT. Until what age did you live there?

Mr. STEPHENS. When I was a young lad we removed to Illinois.

Mr. VAN COTT. And you lived there until when?

Mr. STEPHENS. Until I went to Nebraska, about 1876, the first time, and I commenced the practice of law in Nebraska in 1883.

Mr. VAN COTT. When did you go to Utah?

Mr. STEPHENS. I went to Utah in 1888.

Mr. VAN COTT. Have you resided in Salt Lake City since that time?

Mr. STEPHENS. I have, sir.

Mr. VAN COTT. Have you been practicing your profession while you have been there?

Mr. STEPHENS. Yes, sir.

Mr. VAN COTT. To save a little time, I will ask you whether you have been a trustee of the First Congregational Church?

Mr. STEPHENS. I have.

Mr. VAN COTT. In Salt Lake City?

Mr. STEPHENS. I have.

Mr. VAN COTT. Have you held any political office or offices?

Mr. STEPHENS. I was appointed assistant United States attorney, I think, in March, 1891. I served until June 30, 1893. I was appointed a member of the board of police and fire commissioners of Salt Lake City in 1894 or 1895. I served, I think, a year and a half.

Mr. VAN COTT. Have you also been city attorney of Salt Lake City?

Mr. STEPHENS. I was city attorney during the years 1900 and 1901.

Mr. VAN COTT. Was that an appointive or elective position?

Mr. STEPHENS. That was elective.

Mr. VAN COTT. Have you had any connection with the Salt Lake College in Salt Lake City?

Mr. STEPHENS. I have been on the board of trustees.

Mr. VAN COTT. For how long?

Mr. STEPHENS. I think about fourteen years.

Mr. VAN COTT. Is that a denominational college or a State institution?

Mr. STEPHENS. It is not a State institution, and in one sense is denominational—I should say interdenominational. We have members of various churches upon the board of trustees—Baptist, Christian, Congregational, and one or two others; but the majority, I think, are Congregationalists.

Mr. VAN COTT. Have you ever belonged to the Mormon Church?

Mr. STEPHENS. I have not.

Mr. VAN COTT. Are you a Democrat?

Mr. STEPHENS. I am.

Mr. VAN COTT. When you went to Utah did you take any interest in public affairs and public questions that were then agitating the people?

Mr. STEPHENS. Yes, sir; I took the interest that I think every citizen would take. I went there intending to live there, to make it my permanent home; that was my intention—to reside there permanently, and I have done so, and I expect always to live there.

Mr. VAN COTT. Have you had occasion to travel over the State of Utah, and have you so traveled?

Mr. STEPHENS. I have traveled over the State of Utah somewhat—not to any great extent.

Mr. VAN COTT. Have you been engaged in politics while you have been there?

Mr. STEPHENS. I have always taken an active interest in politics, but I never had much to do with the conduct of the machinery of the party.

Mr. VAN COTT. Taking the time just before the manifesto, was the feeling intense between the Mormons and the Gentiles, or not?

Mr. STEPHENS. During the time of the political contest between the Liberal and the People's parties, the feeling was very intense, and continued until after the manifesto; and after that—and particularly after we divided upon party lines—the feeling was ameliorated a good deal, and has continued to decrease, I think, ever since.

Mr. VAN COTT. Now, calling attention first to the improvement in those feelings between the Mormons and the Gentiles, I wish to invite your attention first to the cooperation, if any, between the Mormons and the Gentiles in charity work and in religious work. Will you give what you know along that line?

Mr. STEPHENS. In charitable work there has always been more or less cooperation. I remember that at the time of the Johnstown flood, which I think was about fifteen years ago, we got up a concert for the benefit of the Johnstown flood sufferers, and George Q. Cannon made the opening prayer, and Dr. T. C. Iloff pronounced the benediction, and the tabernacle organist and the organist of some orthodox church were on the program, and we raised, I think, \$8,000 for the benefit.

But so far as concerns cooperation in religious work, I do not think there has been any cooperation in religious work.

Mr. VAN COTT. Who was Doctor Iloff?

Mr. STEPHENS. He was a presiding elder of the Methodist Church.

Mr. VAN COTT. I did not use the words "religious cooperation" with care. What I meant is the good feeling, if any, which has been manifested by the Mormons in extending courtesies to the orthodox churches as bodies of such members have had occasion to pass through the State of Utah?

Mr. STEPHENS. Do you refer to permitting the use of the buildings or anything of that kind?

Mr. VAN COTT. Yes.

Mr. STEPHENS. That is true. The Young People's Society of Christian Endeavor had the use of the tabernacle on Sunday.

They gave up the regular services, I believe, and opened the tabernacle to the members of the Young People's Society of Christian Endeavor, who were going through to San Francisco to attend a national meeting and were over Sunday in Salt Lake; and I have known of occasions when the Presbyterian delegates to the synod at Portland, I believe, were going through, about 1893, I believe that was, that the theater was tendered for their use and was occupied by them. I refer to the Salt Lake theater, which was owned, I think, by the Mormon Church, or controlled by it.

Mr. VAN COTT. Did the Mormons give up their afternoon and evening services for the purposes you have mentioned?

Mr. STEPHENS. They have no evening services in the tabernacle, as I understand. They gave up the afternoon service. There is one Sunday in the month, I understand, when they do not have services. Whether this occurred upon that Sunday, I am unable to say. But at all events used the tabernacle.

Mr. VAN COTT. Is the Y. M. C. A. established in Salt Lake City?

Mr. STEPHENS. It is, sir. We are now constructing a building.

Mr. VAN COTT. How long has that been in active work?

Mr. STEPHENS. It was organized, I think, in 1890, if I remember correctly. In the Federal court room we had a meeting. It was in active operation until a year and a half ago, when we closed down the work for the purpose of proceeding to erect a building, canvassing for funds to construct a building and putting up a new building, which is now in process of construction, and when completed we shall reenter upon the work.

Mr. VAN COTT. Have you had anything to do with that institution?

Mr. STEPHENS. Yes, sir. I have been a director since its inception.

Mr. VAN COTT. Do you hold any office in it now?

Mr. STEPHENS. I am the president now.

Mr. VAN COTT. And how long have you been president?

Mr. STEPHENS. Two years.

Mr. VAN COTT. Do Mormons belong to the Y. M. C. A.?

Mr. STEPHENS. A good many Mormon young men become associate members. You understand, of course, that they could not be active members any more than the members of some other denominations which are excluded from active membership. But so far as associate membership is concerned, if a young man is clean and willing to work, and wants to be a better man, physically, morally and intellectually, we ask him no question as to what church he affiliates with, unless it might be for statistical purposes, and I think not even for that.

Mr. VAN COTT. Have you ever held what are called purity meetings, where Mormons have attended, with other young men, and when cards have been taken? If so, just state the facts.

Mr. STEPHENS. We had a meeting about a year ago by one of our field secretaries, which was devoted to moral purity in young men, and there was a meeting in the Salt Lake City theater, which was largely attended, both by Mormons and Gentiles. At this meeting cards were passed—the reason I know particularly about the attendance of the Mormons is this—requesting young men who felt a desire to make a resolution in the future to lead a better life, to sign their names, giving the address and the church they most naturally affiliated with, or of which they were members; and of those cards there were, I think, about fifty signed by the names of persons who said they naturally affiliated with the Mormon Church.

Mr. VAN COTT. Now, calling your attention to social clubs, since the feeling there commenced to improve, have Gentiles and Mormons united in business enterprises?

Mr. STEPHENS. Gentiles and Mormons have united in business enterprises more or less ever since I have been there. There are Mormon members of the Alta Club, the leading social club. There are a good many, I do not know just how many, members of the Commercial Club, which is in the nature of a board of trade, but has all club features, a dining room, billiard room, and the general club features. I think the great majority of the members—I know that the great majority of them—are Gentiles, but there are a great many Mormons also, and they are represented on the board of governors. Governor Cutler was recently elected as a member of the board of governors before I came away. It is expected that Governor Wells will be president. I do not know whether he has been elected or not.

Mr. VAN COTT. Is he a Mormon?

Mr. STEPHENS. Yes; he is.

Mr. VAN COTT. Is Governor Cutler a Mormon?

Mr. STEPHENS. Yes, sir.

Mr. VAN COTT. You say the club is largely composed of Gentiles? Have Mormons abstained from joining it?

Mr. STEPHENS. Oh, no; they have not abstained from joining it. It has been a business men's club, a good deal like a board of trade, but I think the majority of the business men in Salt Lake City—that is, the leading business men—are Gentiles, and I think the club naturally has more Gentiles than Mormons, and so far as the smaller Mormon stores are concerned, their managers or owners do not join the Commercial Club. It is more largely composed of such men as would naturally join a board of trade, who are quite active in commercial matters.

Mr. VAN COTT. Outside of mere members, who, in your opinion, have the majority of the business interests in Salt Lake City, Mormons or Gentiles?

Mr. STEPHENS. Do you mean a majority of the capital or number of stores, or in what way?

Mr. VAN COTT. Both ways.

Mr. STEPHENS. In the business part of the city, the main business portion, I would say that, as to numbers, the Gentiles largely predominate. I know they do. If you would take all the outlying ward stores, of which there are a great many—Mormon stores—I would be unable to state how they would compare relatively in their number. And so far as capital is concerned, I would say that in the business portion a very large proportion of the capital interested in commercial enterprises is the capital of Gentiles.

Mr. VAN COTT. Now, calling attention to the Commercial Club, which you have mentioned, is there any distinction there made between Mormons and Gentiles?

Mr. STEPHENS. No, sir; not that I have ever heard of.

Mr. VAN COTT. Is the subject referred to?

Mr. STEPHENS. Not that I ever heard of.

Mr. VAN COTT. For instance, are men who are known to be polygamists, invited to speak at those clubs and at their banquets?

Mr. STEPHENS. I have known a prominent speaker, who was a polygamist, to be invited to speak at a banquet. It was, of course, of a purely business nature.

Mr. VAN COTT. Do you know, for instance, whether singers and musicians who are Mormons are employed in what are called the "orthodox" churches?

Mr. STEPHENS. Yes, sir; they are.

Mr. VAN COTT. Calling attention to politics again for a few moments, did you have anything to do with the dissolution of what has been called the "Liberal" or "Gentile" party, so as to form the people into two political parties on national lines?

Mr. STEPHENS. I do not know that I had anything to do with the dissolution of the Liberal party, but I had something to do with the forming of the old parties—that is, dividing on party lines. I was one of the first five, as I remember it, who met to divide, to join on party lines in one party.

Mr. VAN COTT. You favored that?

Mr. STEPHENS. I did, sir.

Mr. VAN COTT. What year was that?

Mr. STEPHENS. It has been a long time since I gave that consideration. I think it was in 1891. I know it was when I was assistant United States attorney, and we met in the Federal court room shortly after the court adjourned.

Mr. VAN COTT. Had you taken an active interest in the Liberal party before that time?

Mr. STEPHENS. I had.

Mr. VAN COTT. And you had been a member of it?

Mr. STEPHENS. I had; yes, sir. I carried a banner with the rest of them.

Mr. VAN COTT. Why did you favor the dissolution of the old parties and the formation of new political parties on national lines?

Mr. STEPHENS. I did not favor the dissolution of the Liberal party until I became convinced that the manifesto was issued in sincerity and that it was approved by the members of the Mormon Church generally; but when I felt convinced that that was sincere I was glad to divide on party lines, for this reason: That a continual hammering of a sect or people unites them, and when a man's religion is being attacked he defends it and is strengthened in it; that so long as we Gentiles on one side, in a minority, were hammering away at the Mormons, who were in the majority, we were. I felt, intensifying the old conditions, and I felt if we could divide upon party lines and have a Mormon bishop arguing Democracy and another Mormon bishop arguing Republicanism, and have it understood that they were expected to unite with their various political parties and be free to act in them, that this very arguing against each other in politics, instead of arguing against us and we against them, would go a long way toward solving the conditions.

There are some, I think, who have regretted that we ever did it, but they are in a very small minority. The great and vast majority of the people, I think, have approved the division on party lines.

Senator DUBOIS. You mean the vast majority of the Gentiles?

Mr. STEPHENS. Yes, sir; of the Gentiles.

Mr. VAN COTT. When was it that you became convinced that the manifesto was issued in sincerity?

Mr. STEPHENS. Oh, that was a growing feeling. I could not locate any time when I was convinced. It was a matter of conditions, and I could not state any time. I felt I was willing to put them on trial.

Mr. VAN COTT. Now that you put them on trial, how did you find the Mormon voters in reference to their being constant to their party lines?

Mr. STEPHENS. My observation is that, generally speaking, the Mormon voters are quite loyal to party lines, fully as much so as the Gentiles. I would qualify that by saying if anything came up which involved a question very vital, as they felt, to the church, there would be to some extent a realignment.

Mr. VAN COTT. Any more so, in your opinion, than with any other sect?

Mr. STEPHENS. I think that conditions are about the same. I think that which influences men is about the same the world over. But of course the peculiar conditions in Utah are such that it might have a greater effect there than elsewhere in some respects.

I think, if I may be permitted to express more fully my views upon the question of influence in politics, if that is what you are referring to, Mr. Van Cott—

Mr. VAN COTT. Yes.

Mr. STEPHENS. I would say that there are various kinds of church influence. There is, first, the influence which any man has. I would say "influence" without saying "church." There is, first, the influence that any man has who is respected in the community and whose judgment is respected by those who know him; and when it comes to a church, if he is a member of a church, undoubtedly he would have an additional influence among the members of that church by reason of being a member; and that would be true in the Mormon Church, and, perhaps, to some extent a little greater than in the other churches. I would call that, perhaps, legitimate church influence. That is the natural influence which follows from a man's standing in the community. If, however, a question came up which involved the interest of the Mormon Church, I would say, for instance, take the election of 1900, when the question of protection was quite prominent, and the Mormon Church is interested in the sugar business—I think if the leaders of the church would go out and say "We feel that our interest is in having the protective tariff continued," it would have great weight; and I would compare it, I think, to the influence of a manufacturer who would say to his workmen, "I can not dictate to you how you shall vote, but I think our interests lie this way;" and I think it would have its influence.

I think there are probably 25 per cent of the Mormon voters who could be swung one way or the other, and possibly might be, where there was something vital that came up.

Mr. VAN COTT. You think that 75 per cent are beyond any kind of influence at all?

Mr. STEPHENS. No; I would not say they were beyond any kind of influence at all. I do not think any man is beyond any kind of influence.

Mr. VAN COTT. You mean—

Mr. STEPHENS. I would say this: I believe the great majority of the members of the Mormon Church are opposed to church domination in politics and want it to be a thing of the past. They are very much opposed to it, and resent it, I think.

Mr. VAN COTT. And—

Mr. STEPHENS. Excuse me.

Mr. VAN COTT. Proceed. I thought you had finished.

Mr. STEPHENS. I was going to say, I think if the first presidency should openly advocate or dictate to the people how they should vote it would be resented and sat down upon. I think, as I said, that their influence would have weight in matters which affect the church or its interests.

Mr. VAN COTT. Now, referring to the practical side of voting, what have you noticed in regard to Mormon voters being independent in politics?

Mr. STEPHENS. You mean with reference to voting for a Gentile?

Mr. VAN COTT. Yes.

Mr. STEPHENS. Where a Mormon was on the ticket?

Mr. VAN COTT. Yes.

Mr. STEPHENS. A case simply of two men—a Mormon on one side and a Gentile on the other?

Mr. VAN COTT. Yes.

Mr. STEPHENS. In cases of that kind they are loyal to the ticket. I think at the time when Judge Morse was a candidate for city attorney against me that was quite apparent. He and I analyzed the vote together with that idea in view. I think a Mormon votes for a Gentile, where there is nothing else to influence him, just as readily as he would vote for a Mormon, and possibly in some cases more readily than a Gentile would vote for a Mormon.

Mr. VAN COTT. Calling attention now to the time when B. H. Roberts was nominated for Congress, and also to his election, could B. H. Roberts have been nominated in the State convention if he had not been supported by Gentiles?

Mr. STEPHENS. No, sir; he could not have been nominated if there had not been Gentile support. He was opposed, however, by some Gentiles—many, in fact.

Mr. VAN COTT. And many supported him?

Mr. STEPHENS. Many supported him.

Mr. VAN COTT. Now, coming to the actual election of B. H. Roberts, what have you to say on that point, as to whether Gentiles supported him in the election and voted for him?

Mr. STEPHENS. I think they did. I have not thought about that matter, Mr. Van Cott. Of course they did. I know they did, so far as that is concerned, but I could not begin to give any idea as to the relative number. He generally polled his party's strength, I think.

Mr. VAN COTT. Mr. Stephens, I want to call your attention back to the time when you were assistant United States district attorney. Did you prosecute any men for unlawful cohabitation?

Mr. STEPHENS. I did, sir.

Mr. VAN COTT. And they were convicted, I presume, in some cases?

Mr. STEPHENS. Oh, yes. At the time I was assistant United States attorney the prosecutions in my district had become rather rare; that is to say, they had been generally prosecuted, and the number of indictments returned was not nearly so great as it was in the years before when they first began to prosecute them. But I did prosecute and convict Mormons for unlawful cohabitation.

Mr. VAN COTT. And did these prosecutions gradually decrease up to the time of statehood, in January, 1896?

Mr. STEPHENS. They did, sir.

Mr. VAN COTT. And the Federal officers, as they are called, had charge of the prosecuting machinery?

Mr. STEPHENS. They did, sir.

Mr. VAN COTT. Up to that time?

Mr. STEPHENS. Yes, sir.

Mr. VAN COTT. Was there a sentiment and has there been a sentiment in Utah to tolerate or ignore the polygamous relations? By that I mean unlawful cohabitation.

Mr. STEPHENS. In reply to that question I should want to answer at some length, not at great length, but at some length, giving the causes which led up to what might possibly be termed the ignoring to some extent of cases of unlawful cohabitation.

Mr. VAN COTT. I desire that.

Mr. STEPHENS. Under the prosecutions which were instituted for unlawful cohabitation it was only necessary to show that a man had a legal wife, with whom he was presumed to cohabit; that he had been seen about the premises of the plural wife. It was not necessary to prove cohabitation with the plural wife. The result was that men could not visit their children. If I may be permitted, I will mention a concrete instance.

Mr. VAN COTT. I wish you would, Mr. Stephens.

Mr. STEPHENS. When I went to Salt Lake City I rented a house up on Brigham street in the best residence portion, which I afterwards found was next door to a plural family. I rented the house of the father of that family.

Mr. WORTHINGTON. When you say a "plural family" you mean the wife and children?

Mr. STEPHENS. I mean the wife and children. This plural wife lived there. He was a merchant in the city. I rented the house of him and lived there the first year.

He had a family of children from 6 to 12 years of age. That was in 1888. I became acquainted with him, and he used to come up to the house and go into our back yard and call over the fence to some one to come out when he desired to communicate with his family.

On one occasion, when his little girl was sick and expressed a desire to see her father, he requested a neighbor to go in with him, so that he might visit his family.

Now, when the manifesto was issued and we felt that the matter would become a thing of the past as fast as they died if there were no more polygamous marriages, there was a feeling that this harsh rule should not be imposed; that the children growing up there to manhood and womanhood ought to have the advice, care, and sympathy of a father. I think there was a general feeling that for the visiting of a family and looking after them and extending to them the care and advice and sympathy that a father does to his children, he should not be incarcerated in the penitentiary.

In the course of time there naturally came rumors in some instances of additional children, and that was a hard situation to meet. It was a question whether the matter should be ferreted out and the father sent to the penitentiary and the children disgraced in the community, and I think there has not been a general disposition—I know there has not been a general disposition—to ferret out those cases and make them public and send the fathers to the penitentiary.

I do not mean to say we have condoned or approved of bringing polygamous children into the world. We have not, emphatically, any more than we condone or approve the surreptitious sale of liquor on Sunday, although we know it occurs. It is a hard condition to meet, where many things have to be taken into consideration.

Mr. VAN COTT. Was the lack of prosecution in such cases, in your opinion, due in any way to sympathy for the men themselves?

Mr. STEPHENS. Oh, no; not sympathy for the men themselves. It was sympathy for the wife and children, and a realization of the fact that those children were growing up to be men and women, who would take their places in the community and were entitled to a fair start in life with other children.

Mr. VAN COTT. What is the sentiment of the Gentiles, comparatively speaking, as to whether they care very little about new polyga-

mous marriages, but that their particular objection is to unlawful cohabitation?

Mr. STEPHENS. So far as plural marriages, additional marriages are concerned, the sentiment is unanimously against them, both Mormon and Gentile.

The general feeling is that no punishment could be too severe to be visited either upon the solemnizing officer or the contracting parties, and it is very much more pronounced in the matter of additional marriages than it is upon unlawful cohabitation.

The reason is obvious. Unlawful cohabitation will cease when these men die, if there are no more plural marriages; but if there are more plural marriages the institution will be continuous and the situation intolerable.

Mr. VAN COTT. Is that the sentiment among the Mormons themselves in regard to it?

Mr. STEPHENS. It is. I have never heard anything but words of condemnation for one who would solemnize a plural marriage, or for a contracting party. It is regarded as the grossest breach of good faith.

Mr. WORTHINGTON. You mean since the manifesto?

Mr. STEPHENS. Since the manifesto.

The CHAIRMAN. With respect to the sentiment in relation to marriages contracted before 1890, I will ask you what is the sentiment about the party bringing into the world children since that time?

Mr. STEPHENS. We deprecate it very much, Senator Burrows. It is not condoned. It is not approved. We deprecate it; but as I said, it is a hard situation to meet. So far as I am concerned myself, if I had a neighbor who was visiting his family, I should hesitate to inform upon him, for this reason. I want his children to feel that I am one to whom they could look for advice and sympathy, to help them to the extent of extending a helping hand to lift them up rather than one that would put disgrace upon them. I have never personally known them to visit their families, except in the case of the one who lived next door to me, and he did not visit his family that I ever knew of except when he requested some one to go with him in order that he might do so.

The CHAIRMAN. He has had no children since 1890?

Mr. STEPHENS. No, sir; he had no other children; and his children grew up to manhood and womanhood.

The CHAIRMAN. I can readily understand the sentiment in regard to persons married previous to 1890, but is there a sentiment in the community that it is proper for those married previous to that time to continue living with their wives and to have children by them?

Mr. STEPHENS. No, sir. There is not a feeling in the community that they ought to do so. It is deprecated. We are very sorry for it, and we deplore it very much. We do not approve of it by any means. And, on the other hand, I think I agree fully with Mr. Critchlow—I read his examination—when he said there is no general sentiment to proceed to prosecute.

The CHAIRMAN. That is all.

Senator FORAKER. Are there now, since the manifesto, any plural marriages being solemnized?

Mr. STEPHENS. I understand that is the purpose of this inquiry. I do not know of any.

Senator FORAKER. Being the purpose of the inquiry, we want information on the subject.

Mr. STEPHENS. Pardon me, Senator. I do not know of any myself. I have heard rumors of such.

Senator FORAKER. You said the sentiment was universal, as you understood it, among both Mormons and Gentiles, against the celebration of any plural marriages since the manifesto.

Mr. STEPHENS. I would not say that there are not religious fanatics—I do not mean that it is absolutely universal; I would not say that there were no persons who would be in favor of it. I have no doubt that there are sporadic cases of plural marriages, or have been, since the manifesto.

Senator FORAKER. Do you know of any?

Mr. STEPHENS. But I do not know of any myself.

Senator FORAKER. I only wanted to know what is the fact.

The CHAIRMAN. You say the sentiment is universal among Mormons and Gentiles?

Mr. STEPHENS. With that qualification, Senator, so far as I have heard it. Of course I do not assume to speak for everybody.

The CHAIRMAN. I understand; but you say the sentiment is universal among Mormons and Gentiles against the contracting of new plural marriages.

Mr. STEPHENS. I feel that it is. Generally speaking, I should say it is.

The CHAIRMAN. Is the sentiment universal among Mormons and Gentiles against polygamous cohabitation?

Mr. STEPHENS. I think the feeling among the Mormons is quite largely that the men who have contracted plural marriages prior to the manifesto should not be molested in living with their wives since the manifesto.

So far as the Gentiles are concerned, I would not say that there is a sentiment in favor of their so living. It is a thing we deprecate. I would say there is a sentiment that their families should be made to feel, as far as possible, that they are not separate and distinct from the first wives' families; that is to say, they should have the same self-respect, and should not feel that they were apart; that it is in the interest of good citizenship that they should grow up to be like the others, as I have known very many to do—to marry into Gentile families, and become teachers in the schools, and go to West Point, and—

Senator FORAKER. Have you stated why there are no prosecutions instituted by Gentiles of the men who are still living in polygamous cohabitation with plural wives taken before the manifesto?

Mr. STEPHENS. I have stated in a general way.

Senator FORAKER. I did not hear all of your testimony.

Mr. STEPHENS. I said that I agreed with Mr. Critchlow that there is no general sentiment, which has got to be behind a prosecution. But I think the feeling is something like this, if I might illustrate.

Senator FORAKER. Certainly.

Mr. STEPHENS. When I was on the board of police and fire commissioners I advocated the unrelenting extermination of gambling houses, because a gambler can take a shovel and go to work. I opposed the promiscuous raiding of houses of ill fame, driving the inmates from pillar to post and out of the city, because when once in

that position they can never live in any other way. And I opposed doing it as a matter of humanity until there was some way provided for them to live. In other words, it was a condition that confronted us.

Now, in the matter of the offenses of polygamy and unlawful cohabitation, I would prosecute, I would give information to the officers, I would use every means to convict a man of taking a plural wife since the manifesto. But on the other hand, with reference to the families that are there and that are living in these relations, I do not feel that it is best, on the whole, to ferret them out and bring them to the public attention, for the reason that it will be a thing of the past, if there are no more marriages, when they die. My children, I think, would have grown up to maturity and heard little or nothing about these old conditions, as I prefer they should not, if it had not been for the recent investigations.

Senator FORAKER. I think I understand you. Do you think your feeling in that respect is pretty general among the citizens of Utah?

Mr. STEPHENS. It is so general that there are no prosecutions.

Senator FORAKER. There is no public sentiment demanding, or that would support, prosecutions?

Mr. STEPHENS. I would not say there is no public sentiment, but there is not sufficient to compel prosecutions.

Senator FORAKER. There is no sufficient public sentiment?

Mr. STEPHENS. I would say, however, where there are flagrant instances the feeling would be that they ought to be prosecuted. I have that feeling myself. I had the same feeling with reference to that that I would have toward a neighbor who had been guilty of adultery. I would say that if it was not known, I would not want it to be known, because I would not want my children to hear of it; but if it became a public disgrace and stench in the community, I would be willing that it should be prosecuted.

The CHAIRMAN. Would you call the case of the president of the church a flagrant case, when he himself testifies that he has had 11 children by his plural wives since the manifesto?

Mr. STEPHENS. I would, sir; and my personal feeling is that he ought to be prosecuted for not setting a better example; that he ought not to set such an example.

Senator FORAKER. That is what we want to get at—why he is not prosecuted.

Mr. STEPHENS. I can not say why he is not prosecuted, except that I think Mr. Critchlow expressed it in his cross-examination when he said there did not seem to be a general sentiment to do it. I do not know why he is not prosecuted.

Senator FORAKER. And you explain the lack of prosecution in that case in the same way that you do in the other instances—

Mr. STEPHENS. Yes.

Senator FORAKER. That there is not sufficient public sentiment?

Mr. STEPHENS. That is to say, we have hardly got over the shock of reading about that. I have not. I have never seen a polygamous child born since the manifesto, and while I had heard rumors of those matters and of that kind I knew nothing about it personally. As a matter of fact, I know only one house where a polygamous wife lives, and her husband is nearly 80 years of age.

The CHAIRMAN. With this flagrant case existing of the president of the church, what is your opinion as to the probability of his being prosecuted, judging from the sentiment existing in that community?

Mr. STEPHENS. I would be unable to say whether he would be prosecuted or not. I could not answer that question one way or the other, whether he would be or not.

Senator FORAKER. Can you tell us about Mr. Smoot? Can you tell us anything about how he stands in that community as a man of good character and reputation, or otherwise?

Mr. STEPHENS. Senator Smoot stands very high in Utah. His reputation is of the best. I have heard it remarked by those who are very much opposed to an apostle coming to Congress that if one is going to Congress they would rather he be the one.

Senator DUBOIS. Do they generally approve of apostles going to Congress?

Mr. STEPHENS. No, sir. There is a very general disapproval of it. I opposed it myself.

Senator OVERMAN. If Senator Smoot had not been an apostle of the church, was he a man of such prominence in the State as to make him United States Senator?

Mr. STEPHENS. I think he was handicapped rather than otherwise by being an apostle.

Senator OVERMAN. Suppose he had not been an apostle?

Mr. STEPHENS. If he had not been an apostle, I think he would have been Senator just the same. I say I think he was handicapped by the fact that he was an apostle; there was such a general feeling that an apostle ought not to go to the Senate, largely, I think, on account of the manner in which it is viewed by the public generally.

Senator FORAKER. I understand you to state that you think he came here in spite of the fact that he is an apostle rather than by aid of that?

Mr. STEPHENS. That is my judgment. Although opposed to him in politics, had he been of my political faith, I would have opposed him on account of the fact he was an apostle, but I would never have opposed him if he had not been an apostle, if I were of his party.

Senator OVERMAN. Why would you oppose him because he is an apostle?

Mr. STEPHENS. Principally, Senator, because of the fact that it is holding a red rag before a bull to put an apostle up for office. The people feel that they would rather not have it, and the feeling over the country in regard to the Mormon question is such that it brings us into prominence, and we felt there would be a protest, and we generally felt we would rather he would not go. I speak of the Gentiles with whom I talked; that is, we would rather he would not go as an apostle. I do not mean to be understood as saying that I think it would make any difference to him, in regard to his official acts. I expressed my objection to him personally. I know him very well. I told him that I felt that he ought not to be sent—it was since the election, however—that he ought not to have gone as an apostle. He said, "Wait and see whether it will make any difference in my acts." "That is not the question," I said. "I do not think it will make any difference in your acts, but it makes a

difference to the people of Utah and over the country generally." For that reason I was opposed to it.

Senator OVERMAN. Why should the people be opposed to it if the apostle is not objectionable to them?

Mr. STEPHENS. It is objectionable, and the reason, which I assume you desire to have, why it is objectionable to them——

Senator OVERMAN. Yes.

Mr. STEPHENS. Is that there is a general feeling that they do not want the church in politics, and that if an apostle is sent, it is in one sense the church in politics.

Senator OVERMAN. Then the people feel that the church is in politics by having Senator Smoot here?

Mr. STEPHENS. There is a feeling on the part of many Gentiles that that is true.

Senator OVERMAN. To what extent is that sentiment general?

Mr. STEPHENS. I do not know. I do not think myself the church sent him. I say they did not disapprove of it, but whether they approved of it I have no means of knowing. I do not know anything about it. But there is a feeling on the part of many Gentiles that he did come because he is an apostle. I myself do not believe that.

Senator HOPKINS. Would the Gentiles favor sending a Methodist or Presbyterian preacher to Congress?

Mr. STEPHENS. I do not think they would. I do not think they would object to it quite as much as sending an apostle. I do not think there would quite as general objection, but I think they would object. I know they would object to sending such a man. I think they would feel that a man who was in a high ecclesiastical office ought not to be sent.

Senator HOPKINS. In any church?

Mr. STEPHENS. In any church.

The CHAIRMAN. Proceed, Mr. Van Cott.

Mr. VAN COTT. Mr. Stephens, following along this same line, do these reports or rumors of polygamous marriages since 1890 in any way meet with the approval of the Mormon people?

Mr. STEPHENS. I never heard anything but condemnation.

Mr. VAN COTT. Do the young men and women who belong to the Mormon Church go away from Utah to attend colleges and universities?

Mr. STEPHENS. They do, sir.

Mr. VAN COTT. You have expressed yourself along the line from the time you went to Utah up to the present, in a general way. What is your opinion now, after the experiment of fourteen years, as to the result that has been attained up to this time in the solution of the difficulties that have existed in Utah?

Mr. STEPHENS. I think the progress has been very satisfactory.

Mr. WORTHINGTON. I should like to ask a question or two.

Mr. STEPHENS. Just a moment, Colonel Worthington, on the matter of church influence.

I do not want to be understood as saying that there have not been some notable instances of what I would term church influence, but I will say they are deprecated, and we very strongly disapprove of anyone seeking it, whether it be a Mormon or Gentile.

Mr. VAN COTT. What is the feeling of the Mormon people themselves on that point?

Mr. STEPHENS. I think they resent it fully as strongly as do the Gentiles. It was promised them that they should be independent in politics when the manifesto was issued, and when we divided upon party lines, and I think that having tried their wings they do not want them clipped.

Senator DUBOIS. Right here, if you please, I want to quote what I said and see if you agree with me. I do this because it has been brought in evidence. It is a speech which I made in the Senate of the United States and part of which has been printed, and I ask that it all be printed. I wish to read some of it, and to see if what I said expresses your views:

"Mr. DUBOIS. * * * The younger members of the Mormon Church, since they have been given the right of franchise and have participated in politics, do not take very kindly to the exercise of this authority by the leaders, and a great many of them are breaking away; but the power of the church is as absolute among most of the older people as it was in former days.

"Mr. HALE. There is no falling to pieces of that?

"Mr. DUBOIS. There is a falling to pieces among the younger element, who resent it.

"Mr. HALE. But not in the organization of the Mormon Church. That is maintained just as firmly as ever?

"Mr. DUBOIS. No Mormon holding high ecclesiastical position can aspire to any political office without first gaining the consent of the first presidency of the Mormon Church.

"Mr. HALE. That is clearly an objectionable condition. Does not the Senator agree with me upon that?

"Mr. DUBOIS. Most thoroughly. It is, if anything, more objectionable than polygamy.

"Mr. HALE. More far-reaching in its result?

"Mr. DUBOIS. More detrimental to the State and to the interests of the United States.

"Mr. HALE. But that exists to-day?

"Mr. DUBOIS. That exists to-day. That ruling was made by the first presidency of the Mormon Church some six or seven years ago. Under that ruling they destroyed Apostle Thatcher, a Democrat, who was aspiring to a seat in this body. He went before a Democratic legislature asking to be elected United States Senator, and the first presidency destroyed his ambition because he had not gained the consent of the first presidency to make his canvass."

Leaving out the last part about Thatcher, my question is, Do I express your views?

Mr. STEPHENS. I understand there are three different points there. The last one is that a high ecclesiastical officer must obtain consent. I understand such to be the rule.

Your first point was that the younger members are becoming free in politics. I agree with you. Now, if you will reread what you said in regard to—

Senator DUBOIS. This is the point:

"The younger members of the Mormon Church, since they have been given the right of franchise and have participated in politics, do *not take* very kindly to the exercise of this authority by the leaders,

and a great many of them are breaking away; but the power of the church is as absolute among most of the older people as it was in former days."

Mr. STEPHENS. You mean the power of the church to dictate how one shall vote?

Senator DUBOIS. To control in temporal affairs and in political affairs.

Mr. STEPHENS. To control in temporal and political affairs.

Senator DEFEW. That means how they shall vote, of course?

Mr. STEPHENS. I would not say it is as complete as in former days. The speech referred to by Senator Dubois is as follows:

[From Congressional Record, February 5, 1903, pp. 1729-1730.]

"Mr. DUBOIS. Utah was then a Territory, but the Mormons being in the large majority in Utah, of course the Utah legislature could not pass any such provision as was passed by the Idaho legislature, where the Gentiles were in the majority.

"Various causes operated to cause the Mormons to abandon polygamy. There was a feeling among the younger members of the Mormon Church, and a very strong feeling, that polygamy should be done away with. So here was this pressure within the church against polygamy and the pressure by the Government from outside the church against polygamy. In 1891, I think it was, the president of the Mormon Church issued a manifesto declaring that thereafter there should be no polygamous marriages anywhere in the Mormon Church. The Mormons were then called together in one of their great conferences, where they meet by the thousands. This manifesto was issued to them by the first presidency, which is their authority; was submitted to them, and all the Mormon people ratified and agreed to this manifesto, doing away with polygamy thereafter.

"The Senator from Maine [Mr. Hale] will recall that I came here as a Senator from Idaho shortly after that, and the Senator from Connecticut [Mr. Platt] will recall how bitter and almost intemperate I was in my language before his committee and on the floor of the other House in the denunciation of these practices of the Mormon Church. But after that manifesto was issued, in common with all of the Gentiles of that section who had this made fight, we said: 'They have admitted the right of our contention and say now, like children who have been unruly, we will obey our parents and those who have a right to guide us; we will do those things no more.' Therefore we could not maintain our position and continue punishing them unless it was afterwards demonstrated that they would not comply with their promise.

"After a few years in Idaho, where the fight was the hottest and the thickest, we wiped all of those laws from our statute books which aimed directly at the Mormon people; and to-day the laws on the statute books of Idaho against polygamy and kindred crimes are less stringent than in almost any other State in the Union. I live among those people; and, so far as I know, in Idaho there has not been a polygamous marriage celebrated since that manifesto was issued, and I have yet to find a man in Idaho or anywhere else who will say that a polygamous marriage has been celebrated anywhere since the issuance of that manifesto.

"Mr. HALE. Then, it must follow from that, as the years go by and as the older people disappear, polygamy as a practice will be practically removed.

"Mr. DUBOIS. There is no question about it; and I will say to the Senator, owing to the active part which we took in that fierce contest in Idaho, I with others who had made that fight thought we were justified in making this promise to the Mormon people. We had no authority of law, but we took it upon ourselves to assure them that those older men who were living in the polygamous relation, who had growing families which they had reared and were rearing before the manifesto was issued, and at a time when they thought they had a right under the Constitution to enter into polygamous relation—that those older men and women and their children should not be disturbed; that the polygamous man should be allowed to support his numerous wives and their children. The polygamous relations, of course, should not continue, but we would not compel a man to turn his families adrift. We promised that the older ones, who had contracted those relations before the manifesto was issued, would not be persecuted by the Gentiles; that time would be given for them to pass away, but that the law would be strenuously enforced against any polygamous marriage which might be contracted in the future.

"Mr. HALE. I can see the force of that generous policy, which was based upon the larger proposition that in getting rid of an undoubted evil, having provided for its disappearance in the near future, for the time you bear with the present condition of those older parties. Under this generous treatment I suppose those older persons in Idaho did not cease the polygamous relation; they supported their wives and their family relations were maintained, but there was no new taking on, and therefore in time polygamy would disappear.

"Now, let me ask the Senator another question. Notwithstanding that, and what he thinks will be the absolute disappearance of polygamy as a practice of the church, I ask whether the Mormon Church organization and its hold over its followers and membership is maintained as strongly as ever? Notwithstanding the disappearance of polygamous marriage as a church practice, do the Mormons still hold that kind of allegiance which in a sense is offensive in that it makes the church higher than the Government? What is the opinion of the Senator as to that—for I am asking actually for information.

"Mr. DUBOIS. Very much to my regret, Mr. President, I must answer the Senator's question in the affirmative. I can not see any very great diminution in the power of the Mormon Church over its followers in political and temporal affairs since the disappearance of polygamy. Polygamy, as the Senator says, has practically disappeared; it is no longer a question which bothers any of us who live in that part of the country.

"Mr. HALE. But the hierarchy is there?

"Mr. DUBOIS. The hierarchy is there, and designing politicians are there as everywhere, and if it were not for those politicians, coming from the outside in a great many instances, I imagine that our people in that western country would gradually divorce the church from the state in politics.

"Mr. PLATT, of Connecticut. Mr. President—

"The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Connecticut?

"Mr. DUBOIS. Certainly.

"Mr. PLATT, of Connecticut. Has not the Mormon Church by manifesto or proclamation, or whatever name you will give to their authoritative utterances, said that they did not propose to take part in politics; that their members were entirely free to join either of the political parties and to have any political associations and affiliations that they chose?

"Mr. DUBOIS. They did. That was a part of this very manifesto, and one of the strong reasons which impelled us in that country to cheerfully accept it, assuming that they would carry out that provision as well as the other.

"Mr. HALE. But the Senator finds that, so far as the power of the church, the concentrated power over the individual, the hierarchy, is concerned, that is as strong to-day as it ever was?

"Mr. DUBOIS. Well, I probably went a little too far in saying, if I did make such a statement, that it was as strong as it ever was. I think it is not. The younger members of the Mormon Church, since they have been given the right of franchise and have participated in politics, do not take very kindly to the exercise of this authority by the leaders, and a great many of them are breaking away; but the power of the church is as absolute among most of the older people as it was in former days.

"Mr. HALE. There is no falling to pieces of that?

"Mr. DUBOIS. There is a falling to pieces among the younger element, who resent it.

"Mr. HALE. But not in the organization of the Mormon Church. That is maintained just as firmly as ever?

"Mr. DUBOIS. No Mormon holding high ecclesiastical position can aspire to any political office without first gaining the consent of the first presidency of the Mormon Church.

"Mr. HALE. That is clearly an objectionable condition. Does not the Senator agree with me upon that?

"Mr. DUBOIS. Most thoroughly. It is, if anything, more objectionable than polygamy.

"Mr. HALE. More far-reaching in its result?

"Mr. DUBOIS. More detrimental to the State and to the interests of the United States.

"Mr. HALE. But that exists to-day?

"Mr. DUBOIS. That exists to-day. That ruling was made by the first presidency of the Mormon Church some six or seven years ago. Under that ruling they destroyed Apostle Thatcher, a Democrat, who was aspiring to a seat in this body. He went before a Democratic legislature asking to be elected United States Senator, and the first presidency destroyed his ambition because he had not gained the consent of the first presidency to make his canvass.

"Mr. HALE. Does the Senator think—and he has large intelligence about this and near-by States and Territories—that a like condition affecting the church and its sway and its influence and the allegiance to it exists to-day to any extent in New Mexico and Arizona as it does in Idaho—not the practice of polygamy by polygamous marriages in the future, but the deep-seated, overruling law and control of the Mormon Church, which the Senator has so well described in Idaho? Does he think that condition exists to a more or less degree in the two Territories which are the subjects of this discussion?

"Mr. DUBOIS. It exists in those two Territories in exactly the same degree that it exists in Wyoming, Utah, and Idaho, and every other place where there are Mormon people.

"Mr. BEVERIDGE. May I ask the Senator a question?

"Mr. DUBOIS. Certainly.

"Mr. BEVERIDGE. Does the Senator know whether or not there is on the statute books of either of these Territories any law in force at present against polygamy?

"Mr. DUBOIS. I do not know, and I do not care.

"Mr. BEVERIDGE. I should be glad to have the information if the Senator has it. I do care.

"Mr. DUBOIS. I have stated as plainly as I can that there is not any polygamy. So what is the use of having a law against something that does not exist?

"Mr. BEVERIDGE. The question is, then, What is the use of putting in the bill a prohibition against polygamous marriages?

"Mr. DUBOIS. There is not any particular use. If my statement on that point is not true, of course none of my statements are true. I mean my statement that polygamous marriages are not sanctioned or contracted by the Mormon Church.

"Mr. WARREN. Will the Senator allow me?

"The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Wyoming?

"Mr. DUBOIS. Yes.

"Mr. WARREN. I have no desire to correct the Senator in his statements regarding Mormon Church affairs or the Mormon people in Idaho, nor do I desire to define conditions in Arizona or New Mexico; but I wish to say that in my experience of thirty-five years in Wyoming I have known no difference between the Mormon Church and any other church so far as politics have been concerned, or the part the Mormon people have taken in political affairs. If at any time there has been a political condition there that has caused those seeking or those enjoying office to show subservience to the Mormon Church, or to unduly ask that church's influence, I do not know of it.

"We all know that other churches—the Presbyterian, the Methodist, the Catholic, and all the great denominations—have a certain influence in elections, great or small according as they predominate in different localities; and our experience in Wyoming has been that the Mormon people stand exactly as the people of other religious faiths in regard to politics and the exercise of their suffrage.

"The Mormons of Wyoming never have been polygamists, have not been an indolent or an immoral people, but on the contrary have been and are industrious, moral, frugal, and thrifty, and are a desirable and good class of citizens. If there are Mormon settlements in New Mexico and Arizona, and if these settlements increase, I am of the opinion that the Mormons there will form the same desirable class of citizens as we find them in Wyoming.

"Mr. DUBOIS. Mr. President, I do not care to enter into any controversy with the Senator from Wyoming [Mr. Warren]. I was answering the allegation in regard to polygamy. The Senator from Maryland [Mr. McComas] stated that there would soon be a Mormon majority in Arizona; that the Mormons numbered one-fifth of the population now and would soon be two-fifths, or I think he said, or a

majority. I doubt that very much. So far as that is concerned States like Idaho and these proposed new States can easily control the Mormon people whenever they so desire. If the Mormon people should flagrantly, through their first presidency—those who have authority—openly interfere in politics in Idaho I would guarantee to take the stump in that State and disfranchise every Mormon in one campaign.

“MR. HALE. Is it from the first presidencies in the different States or is it from the first presidency in Utah, whom we might call the primate of Utah, that the Mormon people take their directions?

“MR. DUBOIS. They take their directions from the first presidency of the Mormon Church, which consists of the president and two councilors, who are selected from the apostle quorum of twelve, and who are called the second and third presidents, the three being known as the first presidency of the Mormon Church.

“MR. HALE. In each State?

“MR. DUBOIS. No; in Utah. This triumvirate constitutes what is known as the first presidency of the Mormon Church. They have a presidency of the stake, which is the highest authority in Idaho. The supreme power is given these three presidents in Utah.

“MR. HALE. In Utah?

“MR. DUBOIS. Yes. They have presidents in their different Territories and States. In Idaho, for instance, they have two or three presidents of stakes, as they call them, who are presidents over a large area, embracing a great many Mormons. I imagine they have a president of the stake in Wyoming.

“Those presidents of the stakes have no authority politically over their followers. They can be Republicans and go on the hustings, as they do, and contend for the principles of the Republican party; but a Democratic Mormon who occupies a very subordinate position in the church can answer them in just as intemperate language as any public speaker answers another, and will not be checked for it. But when it is understood that the first presidency wants something done they can send their orders out into Idaho and everywhere else, and they will be obeyed. I say—and at some other time I may take up this question again—that if it were not for outsiders we would have settled this question. But we can take care of it in these Territories and States, because what is being done is being done in a measure under cover, and every time authority is exercised which we can trace pretty close to the first presidency, it makes a tremendous disturbance and is bitterly resented not only by Gentiles but by many Mormons as well.

“MR. HALE. Still it is a very serious condition which the Senator has stated to us, that this silent authority, accountable not to the State, not to the nation, not to the officers of the presidency of the State, but to the central, controlling, potential force represented by the first president and his associates in Utah—raises a very profound problem for the Senate to deal with in these States. The Senator knows, as he knows history, that it has been one of the most difficult things to deal with people who hold any allegiance aside from that to the Government—an allegiance which may be, as suggested to me by the Senator from Wisconsin [Mr. Spooner], an oath-bound allegiance, but, if not, is dominating in the mind of the person who is subject to that influence.

"The Senator thinks that the States can deal with that question, but it brings to my mind a clearer appreciation—while we have abolished polygamy, as I think we have as a future practice, and I think the Senator is right about that—it presents to my mind as never before the danger of the influence of the Mormon Church in those localities in the future as a dark element that can not be penetrated by the light that usually illuminates and enlightens communities generally in the States. It is an inside influence; it is pernicious, and may be fraught with the most serious mischief. I think the Senator feels that himself.

"Mr. DUBOIS. I want to be perfectly clear. Of course the Mormon first presidency deny absolutely that they exercise this power. They insist that their hands are entirely out of politics.

"Mr. SPOONER. Do they deny that they are politicians?

"Mr. DUBOIS. They say that they do not try to exercise political control any more than does the bishop of any other church, and we find a great many men like my friend, the Senator from Wyoming [Mr. Warren], who has plenty of Mormons in his State, who insist that the Mormon Church is no different from any other church. They do not openly proclaim this power, nor do they openly exercise this power.

"I think that no one will deny my statement that a great many of the younger element who have tasted the sweets of political life and who are candidates for office on a ticket do not like to have orders issued from Salt Lake that the ticket on which they are running should be defeated. In my State during the last campaign, in one county where we had a ticket which ought to have been elected, the leading Mormon of that county, who was running on the ticket, said, 'We had better withdraw our ticket, because the church is going to defeat us.' The young Mormons resented that very bitterly. For the reason that the first presidency is not proclaiming this power or openly exercising it headway is being made against this power constantly and steadily, especially among the younger element of the church.

"Mr. WARREN. In speaking of Wyoming, of course we have the younger members of the church. Settlements in our State were made later than the earlier settlements in Utah and Idaho. I ask the Senator, in view of his statement regarding the political attitude of the younger members, when it comes to the parting of the ways, if he does not think there is the same tendency to exercise all the functions of citizenship regardless of church affiliations?

"Mr. DUBOIS. I do.

"Mr. WARREN. That being so, does not the Senator think in New Mexico and Arizona, these being newer settlements, that there will not be the same difficulty, or the same degree of difficulty, that the Senator describes in his own State?

"Mr. DUBOIS. I am not putting my State in a different category from the others.

"Mr. HALE. Why should it be different?

"Mr. DUBOIS. It is not different.

"Mr. BACON. Mr. President—

"The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Georgia?

"Mr. DUBOIS. Certainly.

"Mr. BACON. Senators have all gotten together in a bunch over there and we can not hear them. It is a very interesting question, and I hope they will get farther apart.

"Mr. HALE. The Senator from Georgia is missing a great deal.

"Mr. BACON. I am trying to hear it, but I can not do it if Senators all get within a few feet of each other and each one talks to the other.

"Mr. DUBOIS. My contention is that in regard to every subject these two Territories are made an exception, as they have been in almost everything. Judging from the experience in my own State and the experience in Wyoming, I think the Gentile element will always largely predominate in these Territories where Mormons now are. I do not think there is any question for doubt in regard to that. The conditions are the same in all those Western States. If there comes any flagrant interference by the first presidency these States will enact laws like the Idaho test oath, removing the Mormons from all participation in politics, or other laws which will make it very uncomfortable for them. The younger element is helping us in our opposition to church interference. Frankness compels me—and I gladly do it—to state the condition in that country as I understand it."

Senator FORAKER. You said a while ago that the progress which had been made in Utah since the manifesto had been satisfactory. You refer to the changes that Senator Dubois has referred to in his speech—the people becoming more and more independent?

Mr. STEPHENS. Yes, Senator.

Senator FORAKER. And you think that will apply to the older as well as the younger members?

Mr. STEPHENS. I think there are some old members to whom the church is supreme and to whom it would be the first consideration, but I think that number is fast decreasing. When I say that I think the progress has been satisfactory I mean that conditions are getting more like conditions in other States; that we are not such a peculiar people as many believe us to be.

Senator FORAKER. Do you think polygamous cohabitation will entirely pass away with the death of the men who married plural wives before the manifesto?

Mr. STEPHENS. I do, sir, if there are no more plural marriages.

Senator FORAKER. What is your judgment as to plural marriages? I understand you to have expressed one, but I want you to express it again.

Mr. STEPHENS. As to whether there will be more?

Senator FORAKER. Yes.

Mr. STEPHENS. I think they will be just as rare as bigamy among people generally. Oh, I would not say quite as rare as that; very rare. It would be only in the case of an utter fanatic, who would perhaps impose upon the officiating officer in order to get a plural wife.

Senator FORAKER. But there will be no trouble to prosecute in such cases?

Mr. STEPHENS. Not the slightest.

Senator FORAKER. In cases of that kind?

Mr. STEPHENS. No. If I were district attorney, I would be willing to submit a case of that kind to a jury of Mormons.

Senator FORAKER. To a jury of Mormons?

Mr. STEPHENS. I would, so far as that is concerned. I feel the sentiment is so general—that the contracting of new plural marriages is so generally execrated both by Mormons and Gentiles.

Mr. WORTHINGTON. I understood you to say that as a rule the Mormons adhere to their party lines?

Mr. STEPHENS. They do where there is nothing to influence them—where there is no question which comes up which would influence them to go otherwise.

Mr. WORTHINGTON. In the fall election of 1902 I believe the legislature was elected which itself elected Reed Smoot to the Senate?

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. It was known throughout that campaign, was it not, both when the Republican primaries were held and when the members of the legislature were elected, that Reed Smoot would be the Republican candidate?

Mr. STEPHENS. It was. Senator Rawlins was the candidate of our party, and Senator Smoot was the candidate of the Republican party; and it was well known that if the Democrats won it would be Rawlins, and if the Republicans won it would be Smoot. I myself argued that on the stump.

Mr. WORTHINGTON. Not only was Rawlins not an apostle, but he is not a Mormon?

Mr. STEPHENS. He is not a Mormon.

Mr. WORTHINGTON. It was also known when the Republican primaries were held and when the Republican county convention was held that it meant Smoot, and that Smoot was making his contest for the Senate?

Mr. STEPHENS. He made his contest in the primaries.

Mr. WORTHINGTON. Is it not manifest, from what you know of the situation, that thousands of Gentiles by their votes at the primaries, or in their conventions, or at the final election voted so as to make him the Senator?

Mr. STEPHENS. Thousands of Gentiles voted for the Republican members of the legislature, who would vote for Smoot if they were elected.

Mr. WORTHINGTON. That is what I mean.

Mr. STEPHENS. Yes, sir. The Smoot ticket was elected in Salt Lake City, with the exception of Jacob Mauritz, against whom there was the organized opposition of every orthodox church.

Mr. WORTHINGTON. So that in Salt Lake City, where the Gentiles, I think, are a little in the majority, are they not—

Mr. STEPHENS. Possibly. I think they are. Yes; they are.

Mr. WORTHINGTON. It is pretty near an even thing?

Mr. STEPHENS. They are in the majority.

Mr. WORTHINGTON. In that community the Republican legislative candidates were elected when it was known they were going to vote for Smoot and were pledged to do it?

Mr. STEPHENS. Yes, sir; that is true.

Senator OVERMAN. Was there any other Republican contesting in the Republican primaries with Smoot for election as Senator?

Mr. STEPHENS. Yes; Mr. Sutherland was a candidate for the Senate also.

Senator OVERMAN. Was there any other Mormon?

Mr. STEPHENS. Were there Mormons opposed?

Senator OVERMAN. I mean contesting for the Senatorship?

Mr. STEPHENS. No.

Senator OVERMAN. I mean were there Mormons contesting with Senator Smoot for the Senatorship?

Mr. STEPHENS. No; I think there was no other Mormon candidate. I do not recall any. That is something I have not thought about for a long time. I think there was no one else.

Senator DEFEW. Would either party dare nominate for an elective office a prominent citizen who had been very pronounced in his denunciation of polygamy and plural marriages?

Mr. STEPHENS. I should like to have the question read.

The reporter read as follows:

"Senator DEFEW. Would either party dare nominate for an elective office a prominent citizen who had been very pronounced in his denunciation of polygamy and plural marriages?"

Mr. STEPHENS. Such men have been elected to office.

Congressman Allen was notably pronounced in his objection to polygamy and polygamous practices, and was elected a member of Congress in 1895, was it not, Mr. Van Cott—our first Congressman?

Mr. VAN COTT. My attention was diverted for the moment.

Mr. STEPHENS. He was elected when Governor Wells was elected the first time. He was our first Congressman. He ran with Governor Wells, on the same ticket.

Mr. VAN COTT. Yes; I am informed that that is correct.

Mr. STEPHENS. In 1895, the election preceding statehood, when Governor Wells was a candidate for governor, Congressman Allen was the candidate for Congress and was elected.

Mr. WORTHINGTON. What I was asking about, Mr. Stephens, was in reference to what I understood you to say was a general feeling, that an apostle should not go to the Senate. I think what you have said demonstrates, does it not, that if it had not been for the Gentile vote in the primaries Mr. Smoot would not have been sent to the Senate?

Mr. STEPHENS. After Senator Smoot won out in the convention the Gentile Republicans generally got into line for their ticket.

Mr. WORTHINGTON. I understand. For instance, in Salt Lake County, where the Gentiles have at least as many votes——

Mr. STEPHENS. Yes; they have more, I guess.

Mr. WORTHINGTON. As the Mormons, or more——

Mr. STEPHENS. Yes.

Mr. WORTHINGTON. The candidates for the legislature were nominated by the Republican convention with the knowledge that if elected they would vote for Mr. Smoot?

Mr. STEPHENS. Yes, sir; and not only in the convention, but at the polls.

Mr. WORTHINGTON. And at the polls, too.

Mr. STEPHENS. With the exception of Moritz, whom I have named.

Mr. WORTHINGTON. I am not clear that I understand what you said about the reasons for nonprosecutions. You have said that before the manifesto, citing the instance of your neighbor, in order to avoid the danger of prosecution and being sent to the penitentiary for polygamous cohabitation, he had to talk to his wife and children across the fence?

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. Or if his child was sick and he went into the house, he took a neighbor with him, so that he would have a witness——

Mr. STEPHENS. That is true.

Mr. WORTHINGTON. That he went for the purpose of visiting his sick child?

Mr. STEPHENS. Yes.

Mr. WORTHINGTON. I understand that after the manifesto, that hard rule, as you have very properly denominated it, was not maintained?

Mr. STEPHENS. I think there was a general disposition to relax the severity of that rule.

Mr. WORTHINGTON. Did you yourself, after the manifesto, know that your neighbor was visiting his wife and children there?

Mr. STEPHENS. No, sir; I do not know that he did. I do not know anything about it.

Mr. WORTHINGTON. You did not mean to say that when he did not go into his house, except under such circumstances, that you knew that that was the case after the manifesto?

Mr. STEPHENS. I do not understand that question.

Mr. WORTHINGTON. You used the general expression that he did not go into the house except when a neighbor went with him. You did not mean to say that that was the case after the manifesto?

Mr. STEPHENS. I did not live in that vicinity except from the fall of 1888 until the fall of 1889; I lived there one year. After that time I had no knowledge as to his relation, although I have always maintained a friendship with the family.

Mr. WORTHINGTON. You knew that the rule of the law, without regard to the manifesto, was and is, as you stated it, that if a man who had a polygamous wife and children did visit them indiscriminately, no matter for what purpose, he was guilty of polygamous cohabitation?

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. And could be sent to the penitentiary for it?

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. It was a case where a man had to stay away from his wife and children, and not acknowledge her as his wife, or he had to visit them with whatever consequences might follow?

Mr. STEPHENS. He would acknowledge her as his wife. He would not deny her as his wife, but he would be debarred from the society of his wife and children.

Mr. WORTHINGTON. So, it was a question, so far as the strict letter of the law was concerned, whether he would stay away from them altogether——

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. And merely support them——

Mr. STEPHENS. Yes, sir; that is true.

Mr. WORTHINGTON. Or whether he should visit them and be subject to being sent to the penitentiary if anybody wanted to prosecute him?

Mr. STEPHENS. So far as the companionship is concerned, that is true.

Mr. WORTHINGTON. Is not the problem you have referred to this: The difficulty of allowing these men to visit their wives and children for proper purposes, or what would be proper purposes if the law

of polygamous cohabitation was not so strict—to draw the line between visits for that purpose and visits which would result in the birth of children?

Mr. STEPHENS. It was impossible to draw the line.

Mr. WORTHINGTON. It would be impossible to draw the line?

Mr. STEPHENS. That was the hard situation.

Mr. WORTHINGTON. You had to prevent them from going at all, or else shut our eyes to the fact that sometimes they had children?

Mr. STEPHENS. That was the hard situation to meet, but such was the condition we had to meet.

Mr. WORTHINGTON. In respect to your statement that you agree with Mr. Critchlow, I want to make sure that we know what you mean. On page 624 of the record, he being the man who drew this protest, when he was a witness for the protestants, he testified as follows:

“Mr. VAN COTT. Mr. Critchlow, is it not the fact that the general feeling in Utah, among non-Mormons—leaving the Mormons out of view—has been that if all plural marriages had ceased since the manifesto, these relations of unlawful cohabitation they were practically willing to close their eyes to?”

“Mr. CRITCHLOW. I think so.”

Is that what you meant when you said you agreed with him?

Mr. STEPHENS. That is what I referred to. I do not want to be understood as saying that we approve it.

Mr. WORTHINGTON. I did not read the whole sentence.

“I think so, except in cases where they were really absolutely offensive or where they occurred in such a manner as to be really examples to the people. Amongst the higher officials, and even with them, I think it would be fair to say that people were inclined to minimize these things as much as possible for the peace of the State and the community and for its upbuilding and to remove the reproach of it before the country.”

Mr. STEPHENS. I would agree with that statement.

Mr. WORTHINGTON. He was asked this question:

“Mr. VAN COTT. Now, as to John Henry Smith, the fact that a child was born to one of his plural wives during the time of the constitutional convention”—

Which we know was six years after the manifesto—
“non-Mormons as a general rule were disposed to overlook if they felt satisfied that there were no more plural marriages?”

“Mr. CRITCHLOW. Yes, sir; I think so, and felt that the thing would work itself out in the future.”

Mr. STEPHENS. I think that would be true. We were sorry that it did occur—that John Henry Smith had a child at that time. It was a matter of regret.

Mr. WORTHINGTON. Have you read the testimony of Mr. Powers, another witness for the protestants and a leading lawyer of Utah?

Mr. STEPHENS. I have not read his testimony.

Mr. WORTHINGTON. You have not?

Mr. STEPHENS. No.

Mr. WORTHINGTON. I will ask you whether he has expressed the same idea in terms with which you would agree. He says, referring to this matter:

"It has been discussed, and people would say that such and such a man ought to be prosecuted. Then they would consider whether anything would be gained; whether we would not delay instead of hasten the time that we hope to live to see; whether the institution would not flourish by reason of what they would term persecution. And so, notwithstanding a protest has been sent down here to you"—

Referring to the committee—

"I will say to you the people have acquiesced in the condition that exists."

Mr. STEPHENS. Yes, sir; in the sense that we acquiesced in other conditions which we deprecate, but do not see how to meet them.

Mr. WORTHINGTON. You also referred to your anxiety to keep the knowledge of these unlawful relations and the existence of them away from your children, and that they be kept as quiet as possible, as you would in a case of adultery; and you used the expression that they would have remained quiet if it had not been for this investigation?

Mr. STEPHENS. No.

Mr. WORTHINGTON. One moment.

Mr. STEPHENS. I think I want to correct that.

Mr. WORTHINGTON. I was just going to ask you whether you meant just what you said.

Mr. STEPHENS. No; I did not. I was not aware that I had used those words.

Mr. WORTHINGTON. You used that expression.

Mr. STEPHENS. What I meant to say is this: While there are numerous rumors of children born since the manifesto, and in some instances specific cases pointed out, it was not a matter which was so public that our children would know about it, or would talk about it. Of course, it was never mentioned in my family. I meant to say that I think my children would have grown to manhood knowing little or nothing about these old conditions, except for the fact that it had been a matter of such public notoriety in the newspapers recently. I do not want to be understood as saying that it was not to some extent known.

Mr. WORTHINGTON. What was it that first made it a matter of general talk and notoriety?

Mr. STEPHENS. I do not know.

Mr. WORTHINGTON. Do you not know that it was the visit of one Charles Mostyn Owen there, prying around to find out about these things, and publishing them in newspapers?

Mr. STEPHENS. Mr. Owen has been very active in ferreting out cases of unlawful cohabitation and in investigating for polygamous marriages, and it has resulted in considerable newspaper notoriety with reference thereto.

Mr. WORTHINGTON. A great deal more than there was before?

Mr. STEPHENS. Naturally, to the extent that it was investigated and published.

Mr. TAYLER. Brigham Roberts was elected to Congress in 1898?

Mr. STEPHENS. I think so.

Mr. TAYLER. Did you vote for him?

Mr. STEPHENS. I am unable to say whether I did or not. I deliberated on that for a long time.

Mr. TAYLER. You do not know whether you did or not?

Mr. STEPHENS. I do not, as I say, at this time know whether I voted the straight ticket; but I recall that I hesitated.

Mr. TAYLER. He had three wives, had he not?

Mr. STEPHENS. He was reputed to have three wives.

Mr. TAYLER. Do you think it was an outrage that the vague rumors that floated through the air and which only ripened into repute should be developed and shown to be a fact—that a man with three wives was sent to Congress?

Mr. STEPHENS. I never so designated it.

Mr. TAYLER. You have said that these things all were on the quiet until Mr. Owen came along and stirred them up.

Mr. STEPHENS. Oh, no; I did not say so.

Mr. TAYLER. You have said, have you not, that until this investigation you did not know about these men living in polygamy there?

Mr. STEPHENS. No, sir; I did not say so.

Mr. TAYLER. Did you know that Joseph F. Smith was living with his polygamous wives and having children by them?

Mr. STEPHENS. I had heard rumors that Joseph F. Smith was living with his polygamous wives.

Mr. TAYLER. You class all knowledge, then, in rumors and proof. Is there any middle ground that you recognize?

Mr. STEPHENS. There is general reputation.

Mr. TAYLER. General reputation?

Mr. STEPHENS. Yes, sir.

Mr. TAYLER. That is not rumor as you define it?

Mr. STEPHENS. Rumors, if sufficiently frequent, ripen into general reputation.

Mr. TAYLER. Did you not know that publicly, on the floor of Congress, all of these facts which have been testified to before this committee were five years ago proclaimed to the American people—I mean relating to the apostles?

Mr. STEPHENS. All of the facts before this committee?

Mr. TAYLER. Yes; practically every fact relating to an apostle of the church.

Mr. STEPHENS. I did not know that. I want to say that I have not advanced any criticism of Mr. Owen. Counsel asked me——

Mr. TAYLER. I did not interpret your remark as criticising Mr. Owen at all.

Mr. STEPHENS. Counsel asked me whether it became more prominent by that reason. I think that is true.

Mr. TAYLER. I am only getting the source of knowledge. I want to get an expression whether it is a case of calloused intelligence or conscience, or blinding of the eyes, or whether it is the fact they did not know about it.

Mr. STEPHENS. It was not generally talked about.

Mr. TAYLER. But it was generally known, was it not?

Mr. STEPHENS. You mean in reference to unlawful cohabitation?

Mr. TAYLER. Yes.

Mr. STEPHENS. It was felt that many were cohabiting with plural wives.

Mr. TAYLER. You say that the progress since the manifesto is satisfactory?

Mr. STEPHENS. I would rather correct that word. When I say "satisfactory" I do not mean to say it is what it ought to be. I

mean we have had great progress, and we feel satisfied that we have made progress, but we perhaps ought to have made more. I do not mean to say we are content with the progress we have made.

Mr. TAYLER. You have used the word "satisfactory" twice, and you rather take the wind out of my sails by repudiating it now.

Mr. STEPHENS. I do not mean that we are content. We look forward to better things all the time.

Mr. TAYLER. You did expect better things in 1890 than you find to-day? Between 1893 and 1896 was an era of good feeling. You thought things were going to come out all right, did you not?

Mr. STEPHENS. There was a growing condition of good feeling.

Mr. TAYLER. And things have not turned out as well as you expected them to?

Mr. STEPHENS. Well, when you consider—

Mr. TAYLER. Answer the question.

Mr. WORTHINGTON. I submit that the witness has a right to answer.

Mr. STEPHENS. I would prefer to answer it in my own way. I do not want to answer it yes or no.

Mr. TAYLER. Go on, then. It seems to be susceptible of a categorical answer, but if you can not answer it in that way, go ahead.

Mr. STEPHENS. I am here to testify just as frankly to you as to Mr. Worthington.

Mr. TAYLER. I understand.

Mr. STEPHENS. But I want to give the facts as I understand them.

The CHAIRMAN. Answer the question as you desire.

Mr. STEPHENS. I will ask that the question be read.

The reporter read as follows:

"Mr. TAYLER. And things have not turned out as well as you expected them to?"

Mr. STEPHENS. Mr. Tayler, to one who was familiar with all the conditions in Utah, the fact that polygamy grew up as a social institution, a good deal as slavery grew up in the South, and was regarded by those who entered into it as not an immoral relation, and considering the intense feeling that there was for many years, and how solidified the Mormon people were for so many years, I feel, looking at it from a broad standpoint, that we have made about as much progress as one in 1890 would have expected.

Mr. TAYLER. Why did you not say so, then? You answer "yes," then?

Mr. WORTHINGTON. I object to the witness being lectured by counsel.

Mr. TAYLER. Do you answer "yes?"

Mr. STEPHENS. I think we have made as much progress as one would expect who had studied carefully all the conditions. We probably have not made as much progress as many hoped.

Mr. TAYLER. Then it was within the fair region of your expectation that Joseph F. Smith would continue to live with five wives and have children by all of them?

Mr. STEPHENS. I did not think anything about that, that I know of, in 1890. I deprecate the fact now, and I condemn it.

Mr. TAYLER. If that had occurred to you, you would have expected it, would you?

Mr. STEPHENS. I would not say so. I do not know whether I would have expected it or not.

Mr. TAYLER. You would not know?

Mr. STEPHENS. I think this would be true. The general feeling was that Wilford Woodruff had abstained from living with his plural wives, and I do not know whether President Snow did or not; and so far as President Smith is concerned, of course I did not know that he would be president, and did not know what he would do. I could hardly answer that question, Mr. Tayler—what I would have expected in 1890, with reference to President Smith.

Mr. TAYLER. The understanding is that Wilford Woodruff, who signed the manifesto, did cease cohabiting with his several wives?

Mr. STEPHENS. I think that is true.

Mr. TAYLER. That is understood.

Mr. STEPHENS. He was a very old man, and his wives were very old women.

Mr. TAYLER. Now, you tell us that wholly—I do not want to misquote you—the consideration which you have had in respect to the subject of prosecuting men for polygamous cohabitation is for the children and the wife.

Mr. STEPHENS. The wife and the children. I think that is the principal thing. I mean to say there is no sympathy—I do not say there is no sympathy, because these men were fathers, and they regarded themselves as husbands—I would not say there was no sympathy for a man who wished to have the companionship of his children; but I would say that, so far as prosecutions were concerned, the principal sympathy would be with his wife and children.

Mr. TAYLER. Why should the polygamous wife, married before 1890, and her children born since 1890, have any more title to your sympathy and consideration than the plural wife married since 1890 and her children? Is it any more unlawful now than before?

Mr. STEPHENS. It is not any more unlawful for a woman to become a plural wife now than it was before 1890, but it was differently regarded, and I should say that a woman who married a husband since 1890, since they had declared in public conference that they would abandon the practice of plural marriage, would not have my sympathy.

Mr. WORTHINGTON. You said who would marry a husband. You mean who would become a plural wife?

Mr. STEPHENS. Yes, I misspoke.

Mr. TAYLER. Do you understand that the woman whom Joseph F. Smith referred to as the wife of Abraham Cannon, in 1896, has lost any caste with her people or her associates?

Mr. STEPHENS. I do not know anything about that. I do not know the lady. I never saw her. I never heard her spoken of by friends and neighbors.

Mr. TAYLER. Do you suppose she would lose caste?

Mr. STEPHENS. She ought to.

Mr. TAYLER. Do you suppose she has?

Mr. STEPHENS. I do not know; but I say she ought to.

Mr. TAYLER. Do you think she has? You know how those people feel.

Mr. STEPHENS. I think with the great mass of the Mormon people she would lose caste—with all of the younger people certainly.

Mr. TAYLER. If Apostle Taylor has taken two wives, do you suppose he has taken them conscientiously.

Mr. STEPHENS. I do not examine his conscience.

Mr. TAYLER. You told us a while ago that those people took those wives because they honestly thought it was right.

Mr. STEPHENS. And I think they did, under the old régime.

Mr. TAYLER. You talked to us a while ago quite freely about fanatics in the church—

Mr. STEPHENS. Yes, sir.

Mr. TAYLER. Who might take wives?

Mr. STEPHENS. Yes, sir.

Mr. TAYLER. Did you mean that they might take wives believing it was right to take wives or that it was a mere lewd arrangement that those fanatics, as you would call them, would enter into?

Mr. STEPHENS. I can not conceive how a member of the Mormon Church, and much less an apostle, could take a plural wife since the manifesto believing it was right. He would be a religious fanatic on the question of what is right and wrong to a greater extent than I can comprehend.

Senator DEFEW. A religious fanatic is one who believes so thoroughly and completely in the doctrines of his church that it overrides all other human commands or objections. The greater the fanatic, it strikes me, the less liable he would be, simply as a churchman, to go into a plural marriage after 1890. If I understand this question, Senator, President Woodruff received a revelation direct from God in 1890 prohibiting plural marriages and reversing the revelation which had been previously received. So from that time on the prohibition of plural marriages was a revelation from God. Therefore an apostle, much more than a layman; who entered into a plural marriage after that, would not only violate the law of the land, but he would violate directly a revelation delivered to the head of his church. So he could not be a fanatic. He must be a lewd person.

Mr. STEPHENS. That is true. He would be violating the law of the land and the law of God. I am willing that anyone may draw any inference they please from his act. I have no sympathy with his act.

Senator DEFEW. But he could not be a fanatic.

Mr. STEPHENS. That is a metaphysical or psychological question which I do not feel competent to discuss.

Senator DEFEW. And if he attempted to escape, he would give a human reason to himself to escape from what otherwise would be a sin.

Mr. STEPHENS. He might do so, but I want to say, Senator Depew, that so far as concerns the revelation and President Woodruff and the manifesto, I think there was a lot of pressure within the church. I think it came about as much from the people in the church as it did from God.

Senator DEFEW. But we have had direct testimony on many occasions from President Smith and several apostles that the manifesto was given in obedience to a direct revelation which had been received from God.

Mr. STEPHENS. I think they believe that.

Senator OVERMAN. Do you think there is any considerable number of Mormons who believe that the manifesto was the work of man and not the work of God?

Mr. STEPHENS. I think, Senator, there is a growing feeling among the younger Mormons that revelation is a right conception of an eternal truth, and that any man, whether it is Edison, or Lyman Abbott, or Joseph F. Smith, who comprehends a truth not formerly known—I will say known to him—has to that extent had a revelation.

I think the matter of getting a direct revelation from God is growing out of the Mormon people. I know, too, that a great mass of them still believe it. But I think the heaven is working in the lump.

Senator OVERMAN. What do they think about the manifesto? Do they think it is a revelation from God?

Mr. STEPHENS. Oh, I think a great majority of them do, and I think they think and know that there was a lot of pressure within the church, too.

Senator OVERMAN. A considerable number do not believe it was a revelation from God?

Mr. STEPHENS. I would not say a considerable number do not believe it was a revelation from God. I believe it is a mixed proposition.

Senator OVERMAN. I am not talking about what you think, but what the people think.

Mr. STEPHENS. Pardon me. I do not know that I could say just what the general opinion would be in regard to the manifesto itself. I think the great majority of the church would say it is a revelation from God, but I think there are a great lot of them who are learning that the revelation is about what I expressed awhile ago. They are fast learning it.

Senator DEPEW. Do you think a Mormon apostle who is thoroughly saturated with his beliefs and is inspired by his training and association would feel that a revelation from God, he being the direct agent used by the Almighty for giving the manifesto to the people, would need human pressure in order to have him issue it?

Mr. STEPHENS. I wish the question could be read.

The reporter read the question:

“Senator DEPEW. Do you think a Mormon apostle, who is thoroughly saturated with his beliefs and is inspired by his training and association, would feel that a revelation from God, he being the direct agent used by the Almighty for giving the manifesto to the people, would need human pressure in order to have him issue it?”

Mr. STEPHENS. If he felt he had a revelation from God, I do not think he would need human pressure, but I think in the case of Wilford Woodruff vox populi was to some extent vox Dei.

The CHAIRMAN. The committee will now take a recess until half past 1.

Thereupon (at 12 o'clock meridian) the committee took a recess until 1.30 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

The CHAIRMAN. Will you resume the stand, Mr. Stephens?

Mr. STEPHENS. Yes, sir.

The CHAIRMAN. Have you any further questions, Mr. Tayler?

Mr. TAYLER. Yes, sir.

TESTIMONY OF FRANK B. STEPHENS—Resumed.

FRANK B. STEPHENS, having been previously sworn, was examined, and testified as follows:

Mr. TAYLER. Mr. Stephens, in your direct examination you made a general reference, as I understood you, to some notable—notable was the word, I think—interference by the church in politics.

Mr. STEPHENS. I do not remember using the word, but there may have been some cases in which I think there is a feeling that the church interfered in politics.

Mr. TAYLER. State some of them.

Mr. STEPHENS. Do you wish me to state all I can?

Mr. TAYLER. Any notable instances of church interference in politics.

Mr. STEPHENS. In the Senatorial election which resulted in the election of Senator Rawlins and in which Moses Thatcher was a candidate there was a general feeling that Moses Thatcher would have been elected had it not been that the church made an open fight against him. That would be one.

Mr. TAYLER. Yes.

Mr. STEPHENS. In the election of 1900 there was a feeling, on the part of the Democrats especially, that some influence was used to swing the State into the Republican column, and in the Senatorial election following the election of 1900 it is believed that there was church influence exercised.

Mr. TAYLER. By "church influence" what do you mean?

Mr. STEPHENS. What I think is the general opinion was—well, in the Thatcher case I would say that they made an open fight.

Mr. TAYLER. Yes. I am referring to the last case.

Mr. STEPHENS. In the last two I can not say that there was any church influence, but there is a feeling that President Snow rather favored the Republican electors, and that it had some influence; and in the third there is a current rumor, believed by the great majority of the people, that he did render some assistance to Senator Kearns in being elected.

Mr. TAYLER. What other instance?

Mr. STEPHENS. Well, those are the most prominent ones and ones which have been most talked about, Mr. Tayler. I do not know that I could mention any others which would address themselves to the public mind particularly as matters of church influence.

Mr. TAYLER. Do you recall no other instances, Mr. Stephens, where, in your opinion, or in the opinion of any considerable number of the people, the church interfered in politics?

Mr. STEPHENS. I do not recall specific instances, Mr. Tayler, or any instances that I could name that were matter of general public repute.

Mr. TAYLER. Let me ask you, Mr. Stephens, if this represents your belief, your opinion—

Mr. WORTHINGTON. What page, Mr. Tayler?

Mr. TAYLER. Page 885, Volume I.

Senator Hopkins asked this question of Judge Powers:

"What is there in that religion?"—

That is, the religion of the Mormon Church—

"aside from that"—

That is to say, polygamy—

"which does not commend itself to good citizenship?"

To which Judge Powers replied:

"It is the un-American domination of the hierarchy of the people of that faith; the constant teaching that they must obey counsel; the belief that the head of the church is inspired and speaks the word of God when he is inspired, and the interference in our political affairs."

Mr. STEPHENS. Will you read that once more, that I may catch the full import of it?

Mr. WORTHINGTON. Suppose I let him take this copy, so that he can see it for himself.

Mr. TAYLER. Very well.

Mr. STEPHENS (after examining the testimony referred to). When Judge Powers says there is a domination by the hierarchy of the people of that faith I do not agree with him, if he says that the people can be generally dominated in the matter of their voting.

Mr. TAYLER. What word would you substitute for "generally?"

Mr. STEPHENS. I would say that the great majority of the Mormon people want to and do vote intelligently and in accordance with their own convictions. I would say that a percentage would listen to counsel and would do as the leaders felt it was best for them to do.

The CHAIRMAN. May I ask you a question right there?

Mr. STEPHENS. Yes, sir.

The CHAIRMAN. Suppose a certain political course is known to be desired by the head of the church, what influence would that have on the rank and file of the Mormons?

Mr. STEPHENS. It would be resented by the rank and file. It would have some influence upon a part of the people.

Mr. TAYLER. Then you think the attempt to exercise that authority is not generally successful?

Mr. STEPHENS. No, sir; I do not think it is.

Mr. TAYLER. It is the understanding that it is sometimes sought to be exercised, is it not?

Mr. STEPHENS. It is sometimes sought to be exercised, both at the request of Mormons and Gentiles. We have some politicians who are understood to seek for it—I mean both Gentiles and Mormons—and we have other people who are willing to receive it if it comes their way; but generally it is condemned and execrated by the people.

Mr. TAYLER. Now, take the next part of the answer of Judge Powers:

"The constant teaching that they must obey counsel."

Is not that a fact, that the teaching is constant that they must obey counsel?

Mr. STEPHENS. It is taught that they should obey counsel. I have heard reports of such sermons, but I do not think the Mormon people generally understand that it means that they must obey counsel in the exercise of the political franchise or the manner of their conducting their business. I have no doubt that some would try to counsel in that way, but I do not think the Mormon people generally feel that what is meant by being counseled would be extended to political and business affairs, so far as it would involve the free will of each particular member.

The CHAIRMAN. Mr. Tayler, I will have to ask you to suspend at this time, as at 2 o'clock the Senate is to be organized into a court and will require the attendance of all Senators. The committee will take a recess for twenty minutes. I think the ceremony will not last longer than that.

At 1 o'clock and 55 minutes p. m. a recess was taken, and at 2 o'clock and 35 minutes p. m. the committee reassembled.

Mr. WORTHINGTON. Mr. Chairman, Doctor Sowers is here. I wish to examine him, and it will be a great accommodation to him if we can suspend the examination of Mr. Stephens just for a moment and proceed with his examination.

The CHAIRMAN. Very well. Doctor, you may take the stand.

TESTIMONY OF DR. Z. T. SOWERS.

Dr. Z. T. Sowers, being duly sworn, was examined and testified as follows:

Mr. WORTHINGTON. Doctor, you are a practicing physician in this city?

Doctor SOWERS. Yes, sir.

Mr. WORTHINGTON. And you have been for a good many years?

Doctor SOWERS. So many that I do not like to mention it, sir.

Mr. WORTHINGTON. There is filed in this case a certificate which you gave as to the physical and mental condition of a witness named Nicholson. You remember the man and your examination of him?

Doctor SOWERS. Yes, sir.

Mr. WORTHINGTON. The certificate shows the date of your examination. I wish you would tell the committee what you observed as to his condition that would bear upon his mental capacity and his ability to testify as a witness in a case of importance?

Doctor SOWERS. Mr. Chairman, I examined the man very carefully physically and also mentally. I found him a man who was suffering from premature senility. The blood vessels on the surface were hardened, showing a calcareous or arteromatous degeneration of the blood vessels, or what we call arterio-sclerosis; in other words, a hardening of the blood vessels. I tested his memory and talked with him on different subjects. I found he had a defective memory, undoubtedly, and he appeared in that way also a prematurely old man. I had an idea from my examination, which was very careful, that he was suffering from premature senility. He was not so old as he seemed to be.

Now, that was the condition he was in, and my certificate was based on that condition. I do not believe a man who is in such a condition is capable of doing any subject justice, for the reason that the circulation through his brain is more or less impaired by this condition of the arteries, and I think such a man as that ought not to be excited, either physically or mentally, for fear he might have a ruptured blood vessel or something of that sort, and I think he would be a very unsatisfactory witness on any subject.

Mr. WORTHINGTON. You talked with him, Doctor, as well as examined him physically, did you?

Doctor SOWERS. Yes; I talked with him. I wanted to find out his condition.

Mr. WORTHINGTON. What would you say as to his ability to testify intelligently and reliably in a severe examination that might last an hour or more?

Doctor SOWERS. I think as the examination would proceed he would become more and more weakened. I do not think he would be fit as a witness under such circumstances. He might say some truthful things and some things he would not. I do not think he would be a reliable witness.

Mr. WORTHINGTON. And where he would fail over and over again to answer some simple question, would you say from what you observed as to his condition that that might be attributable to his mental condition?

Doctor SOWERS. Yes.

Mr. WORTHINGTON. And not to any desire to evade answering?

Doctor SOWERS. Yes; I should think so.

Mr. WORTHINGTON. That is all.

Mr. TAYLER. Doctor, did you read the examination of Mr. Nicholson before this committee?

Doctor SOWERS. No; I did not. I saw some of it in the paper, but that is all.

Mr. TAYLER. Do you think that any better test of his mental condition could be made than to hear his testimony, or, failing that, to read it?

Doctor SOWERS. How is that, sir?

Mr. TAYLER. Read the question.

The reporter read the question, as follows:

"Mr. TAYLER. Do you think that any better test of his mental condition could be made than to hear his testimony, or, failing that, to read it?"

Doctor SOWERS. Your idea is for me to make an impression on my mind about his condition?

Mr. TAYLER. What is it?

Doctor SOWERS. I do not exactly understand what you are driving at. Is it your idea that you want me to find out from his examination what his condition is?

Mr. TAYLER. Do you not think the reading of his testimony before the committee would have informed you very much more accurately, unless you could have heard it, upon the point of his mental condition?

Doctor SOWERS. I do not think so, because I went very fully into the examination, really with a view of finding out the man's condition.

Mr. TAYLER. What did you certify about him, Doctor?

Doctor SOWERS. Just about what I have said.

Mr. TAYLER. What was that?

Doctor SOWERS. That he was suffering from senile debility—premature senile debility, and I do not think he would make a good witness.

Mr. TAYLER. What else? Is that certificate in the record?

Mr. WORTHINGTON. Yes; it is in the record.

Mr. TAYLER. At what page?

Mr. WORTHINGTON. I do not remember just what page. It was in the first few pages of the second volume.

Mr. TAYLER. The trouble with which he was afflicted frequently exists in elderly people, old people, does it not?

Doctor SOWERS. Oh, yes.

Mr. WORTHINGTON. You will find it on page 83. In justice to the witness, Mr. Chairman, he should be allowed himself to see his certificate.

The CHAIRMAN. Oh, certainly. The Doctor can look at his certificate.

Doctor SOWERS (after examining the certificate). Yes; that is practically the certificate.

Mr. TAYLER. Do you mean to say that people who are thus afflicted are incapable of testifying correctly, intelligently?

Doctor SOWERS. Not always, no; I do not mean to say that. I say that this man was prematurely affected with senile debility. Lots of men have senile debility at the age of 30.

Mr. TAYLER. What is it?

Doctor SOWERS. A great many people have senile debility at the age of 30, and the ability or inability depends very largely upon what vessels are involved in this degenerative process.

Mr. TAYLER. How did you find out this condition?

Doctor SOWERS. By testing his mind, and finding out all I could find out by talking to him.

Mr. TAYLER. What is his age?

Doctor SOWERS. I do not know. I think about 70.

Mr. TAYLER. Then you say he is prematurely old?

Doctor SOWERS. He is prematurely old; yes, sir. He has more of senile degeneration than he ought to have at that age.

Mr. TAYLER. I think the testimony will take care of itself, so far as that is concerned. That is all, Doctor.

The CHAIRMAN. That is all. Mr. Stephens, you may resume the stand.

TESTIMONY OF FRANK B. STEPHENS—Resumed.

FRANK B. STEPHENS, having been previously sworn, was examined, and testified as follows:

Mr. TAYLER. I am not sure, Mr. Stephens, whether you had finished your answer to that part of my question which touched the portion of Judge Powers's answer in which he used the words "the constant teaching that they must obey counsel."

Mr. STEPHENS. Will you give me the page in this record?

Mr. TAYLER. Page 885.

Mr. STEPHENS. I think I had finished the answer.

Mr. VAN COTT. I am quite certain he had finished, Mr. Tayler.

Mr. TAYLER. Do you understand it is common for municipal councils to meet with the high council of the stake?

Mr. STEPHENS. I never heard of its being common or knew of its being done, unless it might have been done in the Brigham City instance. I do not recall, Mr. Tayler, what the testimony was on that point.

Mr. TAYLER. Where there was such a meeting, do you not think the attitude of the people of the church toward the church authorities would be to very seriously impress them with the idea of taking counsel?

Mr. STEPHENS. Will you read that, please?

The question was read by the reporter.

Mr. STEPHENS. By that you mean that there is that feeling of the people generally toward the church that where that occurred they would feel it was their duty to take counsel?

Mr. TAYLER. Yes.

Mr. STEPHENS. I think some would feel that way and others would not.

Mr. TAYLER. Do you not feel that that would be the general disposition of the people under those circumstances?

Mr. STEPHENS. I think, on the whole, Mr. Tayler, that would be resented. Taking the people as a whole, I think it would be resented. I think there are some who would feel that way, but I think the tendency, and the great tendency, is to resent such interference.

Mr. TAYLER. If that were true, would you not think the time to resent it would be when the proposal to meet in joint session came?

Mr. STEPHENS. Well, yes; perhaps that would be true. You mean for the council to object to so doing?

Mr. TAYLER. Yes.

Mr. STEPHENS. The city council?

Mr. TAYLER. Yes.

Mr. STEPHENS. I would think so. I would object if I were a member of it and I were a Mormon.

Mr. TAYLER. You were telling us about the attitude of the Mormons.

Mr. STEPHENS. Well, let that be stricken out, if you please. I think they should object then, and that would be the time. I would answer it that way, Mr. Tayler.

Mr. TAYLER. That is hardly the thought that I am pursuing.

Mr. STEPHENS. Well, that is what I understood your question to be, whether that would not be the proper time to object, when it was proposed. I say, yes; that would be the proper time.

Mr. TAYLER. No; not the proper time to object. Any time would be the proper time, would it not? Is not that the time they would object if they were going to object at all?

Mr. STEPHENS. I can not tell whether they would object then or whether they would object when they got into the presence.

Mr. TAYLER. What I am getting at is this, whether, having consented to meet with the high council or with the stake president and his counselors, the feeling of the Mormon people respecting this subject of taking counsel would not rather induce them to take the counsel given them by the stake president and his counsellors or by the high council?

Mr. STEPHENS. To the extent that they had such a feeling, it would undoubtedly induce them.

Mr. TAYLER. Of course, that would go without saying, Mr. Stephens—to the extent that they had such a feeling they would.

Mr. STEPHENS. I did not mean to answer captiously at all, but you asked "if the feeling they had," and I would say that, assuming they have such a feeling, it would depend. To the extent to which they would have it, I can not say.

Mr. TAYLER. Have you ever heard of any other cases of public officials meeting with church officials?

Mr. STEPHENS. No, sir; I never have heard of any case except that one.

Mr. TAYLER. Did you hear of the case of the high council or the ecclesiastical authorities taking up the subject of whether some people had a right to build an amusement hall in the community?

Mr. STEPHENS. I heard of the Brigham City instance.

Mr. TAYLER. Is that typical?

Mr. STEPHENS. That is the only instance I ever heard of.

Mr. TAYLER. Your ears are—not as to those things, but generally—closed, are they not, to many things that have come to light recently?

Mr. STEPHENS. No, sir; I am willing to hear everything that comes.

Mr. TAYLER. I do not mean that you ostentatiously close them.

Mr. STEPHENS. If you understand that I close my ears, I would say no, sir.

Mr. TAYLER. Well, you do not hear much, do you?

Mr. STEPHENS. I wish you would particularize, Mr. Tayler. I have heard a great many matters that have been referred to.

Mr. TAYLER. We will not pursue that. Take the next paragraph or sentence:

“The belief that the head of the church is inspired and speaks the word of God when he is inspired.”

Do you agree with Judge Powers in that in the relation in which he puts it?

Mr. STEPHENS. I should say yes; there is such a belief on the part of the Mormon people, and of course they would believe he would speak the word of God when he was inspired.

Mr. TAYLER. That is practically universal, is it not?

Mr. STEPHENS. I think that is a general teaching of the Mormon Church—that inspiration comes to the head of the church.

Mr. TAYLER. And do you agree with him that the church has any special powers to control commerce and business through the interests they hold in large corporations?

Mr. STEPHENS. As to whether they have power to do it or not I do not know. They might have some influence. I can not recall instances where they have exercised that power so that I could say it had been exercised.

Mr. TAYLER. When was the last law passed, Mr. Stephens, legitimizing children born of polygamous marriages?

Mr. STEPHENS. I think that was passed in 1896, Mr. Tayler.

Mr. WORTHINGTON. You mean the last State law?

Mr. STEPHENS. The last State law; yes, sir. I am certain it has not been brought up since.

Mr. TAYLER. As you interpreted that was it generally interpreted to mean and be a pledge that polygamous cohabitation resulting in new children should not continue?

Mr. STEPHENS. That the passage of this law was a pledge?

Mr. TAYLER. Yes.

Mr. STEPHENS. That is, a pledge on the part of the Mormon people that it should not continue?

Mr. TAYLER. Yes.

Mr. STEPHENS. I have not thought of it in that light, Mr. Tayler.

Mr. TAYLER. You had not thought of it in that light?

Mr. STEPHENS. The question is new to me. I have not considered it. I do not know what the arguments were with reference to that.

Mr. TAYLER. Did you ever express such an opinion yourself?

Mr. STEPHENS. No, sir: I never discussed that feature of it.

Mr. TAYLER. That the passage of that law implied a pledge that there should not be occasion in the future to pass more laws?

Mr. STEPHENS. No; I do not think that law was passed as such a pledge, but I have never read the speeches which led up to the passage of it nor the statements of the members which led up to their votes.

Mr. TAYLER. According to your view and the view of the people out there—Mormon and Gentile—do you not think that the children of polygamous marriages since the passage of that law are quite as much entitled to have their birth legitimized?

Mr. STEPHENS. I think it would be just, Mr. Tayler, to some time legitimize those children so far as they have occurred, and I think it ought to be done.

Mr. TAYLER. And to continue, so long as they may be born of polygamous marriages, to legitimize them?

Mr. STEPHENS. I think I would say yes to that. Mr. Tayler, that those innocent children ought to be legitimized.

Mr. TAYLER. Are they any more innocent than other illegitimate children, in your view of the case?

Mr. STEPHENS. Yes; I think that so far as the children and their mothers are concerned, I would say that, considering the institution of polygamy, which had grown up and was permitted by the Government to grow up without—

Mr. TAYLER. Without what?

Mr. STEPHENS. Without prosecution or striking it down, as it should have been in the beginning, the relation would be different from that of an ordinary case of meretricious intercourse.

Mr. TAYLER. So you are one of those who think that the Government dealt gently with them, are you?

Mr. STEPHENS. Too gently.

Mr. TAYLER. Was it not the belief there that the Government was extremely harsh? Was not that the thing which touched the people more than anything else, the suffering they endured?

Mr. STEPHENS. No, sir; I think the Mormon people felt it was harsh, but at the same time, Mr. Tayler, that it was a blow that had to come, and the suffering had to be endured.

Mr. TAYLER. Prosecutions for what, Mr. Stephens?

Mr. STEPHENS. Unlawful cohabitation and polygamy.

Mr. TAYLER. Is there any more reason for letting them off now than for letting them off then?

Mr. STEPHENS. Yes, sir.

Mr. TAYLER. You think so?

Mr. STEPHENS. Yes, sir; I do.

Mr. TAYLER. That is all.

The CHAIRMAN. Mr. Stephens, you do not mean to be understood as approving under the circumstances of polygamous cohabitation, and then legitimatizing such children afterwards?

Mr. STEPHENS. No, sir; I do not believe in approving it at all. I do not approve it, but I take the condition, Senator Burrows, that polygamy has been abandoned and will be exterminated, that as they die it will pass away, and I think the children, unfortunate as it may be that there are such children born, should be legitimized some time. I would not be in favor of making them bastards.

The CHAIRMAN. Still you think it would be well if the practice could be stopped, do you not?

Mr. STEPHENS. Oh, I wish we did not have it.

The CHAIRMAN: I say you think it would be well if the practice of polygamous cohabitation could be stopped?

Mr. STEPHENS. I think it would be exceedingly well if there never was another polygamous child born, Senator Burrows; but to say that the children who now live should not have the right to have their fathers visit and care for them I think would not be well. I would say that I think it would be well if polygamous cohabitation should stop, in the sense of continuing the rearing of children.

The CHAIRMAN. I think you did not quite understand my question. Then you do not approve of polygamous cohabitation among the adherents of the Mormon Church for the purpose of raising children?

Mr. STEPHENS. I do not, most assuredly.

The CHAIRMAN. You think that is wrong?

Mr. STEPHENS. I think that is wrong.

The CHAIRMAN. And should be stopped?

Mr. STEPHENS. If it is possible to do so.

The CHAIRMAN. How can you stop it? With the head of the church living in open polygamy and confessing to rearing eleven children since the Lord commanded him to stop, and with the sentiment of your community against prosecuting these offenses, will you inform the committee how it can be stopped?

Mr. STEPHENS. It can only be stopped absolutely by again commencing the rigid enforcement of the law against unlawful cohabitation.

The CHAIRMAN. But that can not be enforced, I understand, in your State. There is nobody to make complaint.

Mr. STEPHENS. No; I know there is no general sentiment toward reopening this old fight and old business.

The CHAIRMAN. Not reopening the old, but opening it to-day.

Mr. STEPHENS. I mean to be understood as saying that there is no general sentiment in favor of going on with prosecutions for unlawful cohabitation.

The CHAIRMAN. Then, Mr. Stephens, there is no sentiment in favor of prosecuting the head of the church for his offense?

Mr. STEPHENS. I would not say that.

The CHAIRMAN. What do you say?

Mr. STEPHENS. I would say there was a divided sentiment in that respect, but which as yet has not been strong enough to cause a prosecution.

The CHAIRMAN. There is no sentiment there that is strong enough then to cause that prosecution or any other?

Mr. STEPHENS. It has not been instituted yet.

The CHAIRMAN. Then how are you going to stop it?

Mr. STEPHENS. I think there will be occasional cases of polygamous children born—

The CHAIRMAN. I am speaking of the president of the church and the apostles, some of them—the majority of them, perhaps—living in polygamy and having children. How are you going to stop it?

Mr. STEPHENS. It will not be stopped without a prosecution.

The CHAIRMAN. It can not be stopped without a prosecution?

Mr. STEPHENS. No.

The CHAIRMAN. And the sentiment of the communities where these people live is such that a prosecution is not likely to be instituted?

Mr. STEPHENS. I would say that up to this present time it has not been sufficient to cause one. Whether it will increase enough, I do not know.

The CHAIRMAN. What would be your judgment as to the effect of an amendment to the Constitution of the United States prohibiting polygamy in all the States and Territories?

Mr. STEPHENS. I think there would be no objection raised to an amendment to the Constitution of the United States prohibiting polygamy. I do not think it is necessary to pass such an amendment in order to stamp out future plural marriages, because I believe they will be discontinued anyhow. It can not exist in this day and age of the world in a civilized nation for any length of time. As to the question of passing a constitutional amendment with regard to the practice of unlawful cohabitation, my judgment is it would not be wise to do it.

The CHAIRMAN. Why not?

Mr. STEPHENS. Because the enforcement of such a law, under existing conditions, when it is fast dying out, would cause a feeling of bitterness. The children who are now the children of polygamous marriages, whether born before the manifesto or since, would have a stigma put upon them. They would not be reared to be as good and self-respecting citizens, in my own judgment, as they would to let it go on naturally.

The CHAIRMAN. But, Mr. Stephens, let me suggest to you that a constitutional amendment would prevent those now living in polygamy from having further children by that relationship. Is that to be deplored?

Mr. STEPHENS. That is not to be deplored. It is to be sought.

The CHAIRMAN. Would that visit any disgrace on the children that would not be born?

Mr. STEPHENS. You can not segregate the two.

The CHAIRMAN. They have to be together?

Mr. STEPHENS. That is the difficulty. Where one has married a wife many years ago and gone into it, as a great many and I think the majority did, from a religious motive and not from a lustful motive, and they have sustained the relation of husband and wife and are men and women of middle age, the going to the family and the sustaining of the relation of a father in other respects would, in too many instances, bring the other.

The CHAIRMAN. The committee, of course, understand what you mean. Then the result of it is there is no end to that business, in your judgment, except death?

Mr. STEPHENS. That is my judgment.

Mr. TAYLER. Mr. Stephens, you have said something about polygamy being dead, or words to that effect. Is it not more than twenty years since the Mormons themselves claimed that polygamy was dead?

Mr. STEPHENS. I do not know when they first made any claim about that. I think it has been dying for twenty years.

Mr. TAYLER. Do you claim it is dead now?

Mr. STEPHENS. I claim that, so far as plural marriages are concerned, it is practically dead, Mr. Tayler.

Mr. TAYLER. Would you say that a thing is practically dead if four apostles of the church had within the last four or five or six years participated in plural marriages or married plural wives themselves?

Mr. STEPHENS. I would say that, so far as the great mass of the people is concerned, it is.

Mr. TAYLER. I am not talking about the mass of the people. I am talking about polygamy.

Mr. STEPHENS. We are talking about a condition in Utah as a whole.

Mr. TAYLER. No; you said polygamy was practically dead.

Mr. STEPHENS. Yes.

Mr. TAYLER. And I asked you the question whether you thought it would be considered dead, or whether you would consider it dead, if four or five of the apostles had contracted plural marriage within the last few years.

Mr. STEPHENS. In a broad sense, I would still say it was dead—

Mr. TAYLER. You would say the same?

Mr. STEPHENS. Just let me finish my answer. In a broad sense, I would say that it was dead, in the sense that such a very small number would go into it or tolerate it anyway.

Mr. TAYLER. Exactly.

Mr. STEPHENS. But I would say, so far as the quorum of apostles is concerned, it was not dead.

Mr. TAYLER. Of course not. Thanks for the admission. Suppose that all of the first apostles and first presidency had taken plural wives within the last few years, you would still say that it was practically dead, would you not?

Mr. STEPHENS. I would say that so far as the great mass of the people are concerned it was, but so far as they were concerned it was altogether too much alive.

Mr. TAYLER. But as a living principle in the Mormon Church, you would say it was very much alive, would you not?

Mr. STEPHENS. I think the principle of polygamy in the Mormon Church, Mr. Tayler, is fast sustaining the same relation to that church that the harsh doctrines of Calvinism have long sustained in the Calvinistic churches. People joined the church and signed the creed in the Calvinistic churches without assenting to the harsh doctrines—doctrines which seem to me harsh. I use the expression in no sense of criticism.

Mr. TAYLER. It is just the same kind of a thing as polygamy?

Mr. STEPHENS. No, sir; it is not the same kind of thing as polygamy. Perhaps the comparison is invidious. I think anyone who is a member of the Calvinistic Church will understand me and not feel that I am casting any reflection whatever; but I mean to say that a great and growing number do not mentally assent to the rightfulness of entering into a plural relation by joining the Mormon Church, even though the tenet was in the creed, any more than a great many people assent to the doctrines in any creed by becoming a member of the church and nominally assenting to the creed.

Mr. TAYLER. Now, let me ask you if this accords with your knowledge of the history of affairs out there? I read—I have not a copy of it at hand, but it is a public record here—from the speech made by Mr. Rawlins, who was then a member of the House of Representa-

tives, and before I asked you the question you referred to Mr. Rawlins. Mr. Rawlins was and is a Gentile?

Mr. STEPHENS. He is so regarded. His father was a Mormon.

Mr. TAYLER. He was a staunch friend of the Mormon people and the Mormon Church in Congress, was he not—their defender always? I do not mean unjustly, but he constantly stood their friend, did he not?

Mr. STEPHENS. I can not say to what extent. I am not familiar enough with his speeches to say what he did. They are a matter of public record, of course.

Mr. TAYLER. I find this in that speech which he made on the question of the admission of Utah. He was asked this question by Mr. Morse, of Massachusetts—

Mr. WORTHINGTON. What are you reading from Mr. Tayler, so that we can get it?

Mr. TAYLER. I am reading from his speech.

Mr. STEPHENS. And what year, Mr. Tayler?

Mr. WORTHINGTON. Where is it to be found, please?

Mr. TAYLER. It is to be found in the Congressional Record. It is to be found in the report in the Roberts case and in a number of other public documents. Those are all I can think of now. It has been many times printed.

Mr. WORTHINGTON. Is that a quotation from your speech?

Mr. TAYLER. I think this is in my report. Whether it is in the speech or not I do not recall. It is wholly a quotation.

Mr. Morse said:

"The twin relic of barbarism, polygamy, still lives. And while it does live and is in the ascendancy I can never vote to admit Utah as a State of the Union."

To which Mr. Rawlins replied:

"It was found in 1882 there were 2,225 adult male polygamists in the Territory of Utah. This report proceeds to say"—

Whether he means the report on the admission or not, I do not know—

"It is not denied by the advocates of admission that polygamy is practiced in that Territory, but they claim it is not obligatory upon the members of the Mormon Church, but that it is gradually dying out until now there are comparatively few who are living in polygamous relations and that this few are generally past the meridian of life. They claim that polygamous marriages have ceased to be solemnized; that in the near future polygamy will have ceased altogether, and is even now practically dead, and that it is unjust to deprive the many of political rights because the comparatively few are violating the law in this regard."

Mr. WORTHINGTON. What is the date of that speech of Mr. Rawlins, Mr. Tayler?

Mr. TAYLER. This was made in 1893, eleven years ago, and the report was possibly the report that came out that year.

That was true, was it, at that time, eleven or twelve years ago, Mr. Stephens?

Mr. STEPHENS. You are now reading from his speech?

Mr. TAYLER. I was reading from a report made prior to the time the speech was made.

Mr. WORTHINGTON. That is, a report made prior to the time the speech was made, reporting the speech?

Mr. TAYLER. The speech refers to a report which had been made; therefore it must have been made before the speech was made.

Mr. WORTHINGTON. You said the report referred to the speech.

Mr. TAYLER. Oh, no; not at all.

Do you understand that was the situation at that time?

Mr. STEPHENS. What was the date of the report?

Mr. TAYLER. Prior to December 1893.

Mr. STEPHENS. How long prior? If it was many years prior I would say that it was not true.

Mr. TAYLER. Was it, if it was made immediately prior?

Mr. STEPHENS. To 1893? I would say that there would be a comparatively small number.

Mr. TAYLER. That it was practically dead?

Mr. STEPHENS. In 1893 I would agree that, so far as there being new plural marriages is concerned, it was practically dead.

Mr. TAYLER. Was it claimed as far back as 1888, by representatives of the Mormon Church, that polygamy had been forbidden by the Mormon Church?

Mr. STEPHENS. I never heard it so as far back as 1888.

Mr. TAYLER. You know who Angus Cannon was?

Mr. STEPHENS. Yes, sir. You mean Angus M. Cannon, the elder, president of the stake?

Mr. TAYLER. Angus M. Cannon, sr.: yes. Well, I want to proceed with this matter. They continued with the colloquy, and some reference was made to George Q. Cannon, and Mr. Rawlins said:

"They elected him in years gone by."

That is, Mr. Cannon.

"I am not denying, my dear friend—"

Says Mr. Rawlins—

"that in 1853 or 1860, or 1875 or 1880, polygamy was practiced in Utah. I am not denying that the people of that Territory elected polygamists to office in those old days. But the gentleman does not seem to know that the world does progress. There is nothing under the sun that is not changeable and subject to alteration. And that being so, the gentleman himself had better be careful.

"Now, Mr. Chairman, if I may be permitted to proceed, I would like to do so for a few moments without interruption. A case was tried in Idaho about 1886, in which a large number of witnesses were called who testified that polygamy in that Territory as early as 1884 had been forbidden by the church. Testimony was given in a case as early as 1888 that in Utah the Mormon authorities had in reality forbidden the practice of polygamy or the contraction of polygamous marriages as far back as 1886, and that after that time the practice had not existed."

Do you understand that that is the fact?

Mr. STEPHENS. I did not go to Utah until the fall of 1888, and I have never before heard it claimed that polygamy did not exist during the dates prior to 1888 that are mentioned there.

Mr. TAYLER. Had you ever heard that the Mormon authorities had in reality forbidden the practice of polygamy or the contraction of polygamous marriages as far back as 1886?

Mr. STEPHENS. No, sir; I never heard it.

Mr. TAYLER. That is all.

Senator McCOMAS. You did not go there until 1888?

Mr. STEPHENS. I did not go there until 1888. My understanding was that it was not forbidden until the time of the manifesto. That has always been my understanding.

Senator DUBOIS. Mr. Stephens, what was the general impression as to whether Mr. Kearns would have been elected to the Senate if the church authorities had not helped him?

Mr. STEPHENS. The general impression is that he could not, Senator Dubois.

Senator DUBOIS. Unless he had been helped by the church authorities?

Mr. STEPHENS. That is the impression.

Senator DUBOIS. What is the general impression as to whether Mr. Thatcher would have been elected if the church had not interfered against him?

Mr. STEPHENS. The general impression is that Mr. Thatcher would have been elected, polygamist as he was, if the church had not been against him.

Senator DUBOIS. What do you think in regard to each case? Do you think Mr. Thatcher would have been elected if the church had not been against him?

Mr. STEPHENS. I am inclined to think he would. He was a very popular man there.

Senator DUBOIS. Do you think Mr. Kearns would have been elected if the church had not been for him?

Mr. STEPHENS. No; I do not think he would.

The CHAIRMAN. When was Mr. Kearns elected, Mr. Stephens?

Mr. STEPHENS. In 1900. Of course I may be mistaken. I am only reflecting general rumor, that is all. I am not passing any judgment upon either of the gentlemen at all. I only reflect general rumor.

The CHAIRMAN. You have spoken of the sentiment in Utah being such that the head of the church can not be prosecuted for his crime?

Mr. STEPHENS. Not can not be, but up to date has not been.

The CHAIRMAN. Do you think he will be?

Mr. STEPHENS. Well, I can not say whether he will or not.

The CHAIRMAN. And will he be unless the sentiment changes?

Mr. STEPHENS. I do not know how that may be crystallized, Senator Burrows, in the next few months. It is hard to tell you.

The CHAIRMAN. You could not tell about that?

Mr. STEPHENS. I could not tell.

The CHAIRMAN. Suppose a constitutional amendment prohibiting polygamous cohabitation were passed and Congress authorized to pass such laws as were necessary to carry it into effect, and the Government of the United States should attempt to prevent this practice. Do you think it would be powerless to bring Mr. Smith to justice?

Mr. STEPHENS. Oh, I think the United States could pass legislation which would effectuate that end just as well now as they could in 1887.

The CHAIRMAN. What I want to get at is this: The authority of the United States, if it should take hold of this matter, would be respected, would it not?

Mr. STEPHENS. Oh, unquestionably.

The CHAIRMAN. Your people respect the authority of the Government of the United States?

Mr. STEPHENS. Certainly: there is no question about that.

The CHAIRMAN. Do you think it is wholesome for the head of the church to live in polygamy and boast that he has?

Mr. STEPHENS. I do not, sir.

The CHAIRMAN. You do not want that to continue?

Mr. STEPHENS. I do not want it. I think the head of the church should set a different example. I am not surprised that the lay members should continue in those relations, but I regret exceedingly that the head of the church has.

The CHAIRMAN. Is it simply a regret? Is that the sentiment of your people, that it is simply regretful that he does that thing?

Mr. STEPHENS. Well, he is condemned for doing it.

The CHAIRMAN. That is the general sentiment, is it?

Mr. STEPHENS. That is the general sentiment, of condemnation, that he does so.

The CHAIRMAN. And yet no person, man or woman, dare complain of him?

Mr. STEPHENS. I would not say "dare," Senator Burrows, but they have not.

The CHAIRMAN. Are the business interests of the State so mixed up with the affairs of the church that it would not be safe to do it?

Mr. STEPHENS. No, Senator.

The CHAIRMAN. Or be hurtful to business?

Mr. STEPHENS. Not so far as the president is concerned. I think if there was a general wholesale onslaught on the present relations of those who married before the manifesto it would cause a state of affairs that would not be good for the State. I think the general feeling would be that we ought to let this matter die out as it is; but so far as the president is concerned, the sentiment is universal that he is reprehensible in the extreme for continuing in those relations—that is, to raise children, as he has testified to.

Senator DUBOIS. If a constitutional amendment should be passed against polygamy and, after it had been ratified by the States and was a law men should enter into new polygamy, do you think they could be convicted under that act?

Mr. STEPHENS. They could be convicted now, Senator Dubois.

Senator DUBOIS. They were not convicted in the early days, were they? Do you recollect any case in which a conviction was obtained?

Mr. STEPHENS. They had a great deal of difficulty in making convictions in early days, but the sentiment is altogether different now, Senator Dubois. I would say there is no obstacle in the way of convicting.

Senator DUBOIS. I fear you do not understand me. They convicted in the early days for unlawful cohabitation, but there were very few convictions for polygamy, were there not?

Mr. STEPHENS. There were very few.

Senator DUBOIS. Why?

Mr. STEPHENS. I think, Senator, that at the time the United States law went into effect there were few polygamous marriages being solemnized, and the feeling of the Mormon people, as a whole, would tend to suppress evidence in a case of polygamy; but now I think

the universal sentiment is that no punishment could be too severe for one who went into it.

Senator DUBOIS. You do not quite understand me, Mr. Stephens. I am speaking to you now as a lawyer. In order to convict of polygamy you must prove the plural marriage?

Mr. STEPHENS. Yes.

Senator DUBOIS. Do you think it would be any easier now to prove the second marriage than it was in the early days?

Mr. STEPHENS. I think it would, if you could find a witness to it. I think it would be just as easy under State law as under United States law, Senator. The sentiment is so strong against it. In other words, I think the ordinary Mormon, even, who had knowledge of a case of plural marriage would be glad to testify against it. I have heard them so express themselves myself.

Senator OVERMAN. Is the evidence as easily obtainable now as it was in former days?

Mr. STEPHENS. I think it would be very much easier. I think it would be very easy indeed.

Mr. TAYLER. Is it not very much more difficult, on reflection, Mr. Stephens, to get the evidence of a new plural marriage now than formerly? Now it is done under the hat, is it not, wholly?

Mr. STEPHENS. I should say it is. It has to be done mighty secretly, if it is ever done.

Mr. TAYLER. Therefore it is more difficult to find than it was before. Is not that a fair answer?

Mr. STEPHENS. I do not think so. I would say that there is a far more general disposition to prosecute, and there is no disposition to cover it up or evade or anything of that kind; and I believe the plural marriages that have been solemnized have been done secretly, and perhaps in some other State. I do not know anything about it. I know it would be a foolhardy man who would undertake to let it be known so it could be prosecuted. He would go to the penitentiary very quickly.

Senator OVERMAN. You say Senator Kearns could not have been elected except for the interference of the church, in your opinion?

Mr. STEPHENS. I say I reflect common rumor in that respect, Senator Overman.

Senator OVERMAN. Did the church have anything to do with the failure of Senator Kearns of reelection?

Mr. STEPHENS. There is such a rumor, that he was not able to get the influence—that is, for a reelection.

Senator OVERMAN. If he had had the church back of him, then he would have been reelected, you think?

Mr. STEPHENS. I could not say that. I do not think he could get the church back of him now.

Senator OVERMAN. But if he had had it, as he had it before?

Mr. STEPHENS. It might be possible.

Senator OVERMAN. What do you think of it? Do you think he would have been elected if he had had the church influence he had before?

Mr. STEPHENS. If the same conditions existed that existed before. I suppose he would have been elected.

Senator OVERMAN. That is, with the church in his favor?

MR. STEPHENS. Yes, sir.

Senator OVERMAN. Do you think the church had anything to do with the election of Senator Smoot? Is there such a rumor?

MR. STEPHENS. I replied this morning that I believed he was handicapped by the fact that he was an apostle.

Senator OVERMAN. You did answer that?

MR. STEPHENS. And I think that would be a sufficient answer.

Senator DUBOIS. He received the consent of the church to become a candidate for the United States Senate?

MR. STEPHENS. Oh, certainly.

MR. TAYLER. Everybody knew that in Utah?

MR. STEPHENS. Why, sure.

Senator DUBOIS. What do you suppose the effect would have been if they had refused their consent and he had persisted in running?

MR. STEPHENS. Well, I am unable to say whether he would have met the fate of Thatcher or not if he had been refused the consent and had persisted in running. If that state of affairs had come about, I do not know. If he had gone to the people, with the advancement we have had since the Thatcher controversy, I am inclined to think he would have been elected. There has been such an advancement in opinion, and, as I consider, such an advancement in independence on the part of the Mormon voters, that I think if he had gone to the State he would have been elected, if it was possible for him to go the voters, in opposition to the church: but perhaps I should qualify that somewhat. I do not know how that would be regarded with one who is an apostle and in a certain sense required to give his time. I do not know how that would be regarded by the members of the Mormon Church as a whole. That might have a very great influence—that one who was an apostle would not be true to his duty as a church officer should he persist in running for office and not have the consent. That itself might have a very great weight with the Mormon people. They might condemn such an action.

MR. TAYLER. Do you generally feel out there that there is no impropriety in a man who is an apostle of the church being also a United States Senator?

MR. STEPHENS. I replied this morning, and I reply now, that there was a very great feeling on the part of Gentiles, and I know on the part of many Mormons, that an apostle should not.

MR. VAN COTT. That has been gone over fully.

MR. STEPHENS. I would say that the feeling, Mr. Tayler, is that one who has a high church office ought to be content with it. There is that feeling among some of the Mormon people, and that they think they would rather he would not have both.

Senator OVERMAN. Do they have that feeling to any degree because a Senator of the United States might be affected by his church relations as a Senator?

MR. STEPHENS. Oh, no; I think not. I think it is a feeling that high offices ought to be distributed.

MR. VAN COTT. All ought to have a chance?

MR. STEPHENS. Yes; they all ought to have a fair chance at the high offices.

MR. WORTHINGTON. Mr. Stephens, there was quite a difference in the circumstances when Moses Thatcher was a candidate, was there

not, and when Mr. Kearns was elected, in this—that in the Moses Thatcher case it was a square open fight between him on the one side and the church on the other all over the State?

Mr. STEPHENS. Certainly. That is true.

Mr. WORTHINGTON. While when the legislature was elected, which itself elected Senator Kearns, there was no such question in the State at all, was there?

Mr. STEPHENS. No; none whatever in the State.

Mr. WORTHINGTON. And is not the rumor to which you refer a rumor not so much that the church interfered, or that the church authorities interfered, as it is that President Snow interfered?

Mr. STEPHENS. That is the current rumor.

Mr. WORTHINGTON. And even so far as rumor goes, it does not charge anybody with having interfered in that matter, does it, except President Snow himself?

Mr. STEPHENS. I think it is not generally understood how far that went. We do not know anything about it, and we do not know it, of course, at all only by rumor.

Mr. WORTHINGTON. President Snow was a very old man at that time, was he not?

Mr. STEPHENS. He was, indeed.

Mr. WORTHINGTON. Was it not reputed that he was in his second childhood?

Mr. STEPHENS. Well, I think President Snow was reasonably acute and in the possession of his faculties. He was an old man.

Mr. WORTHINGTON. Are you speaking from personal acquaintance with him now? I asked you about the reputation in that regard. Were you personally acquainted with him, or did you meet him at about the time of this alleged Kearns transaction?

Mr. STEPHENS. I do not think I talked with President Snow for three or four years before his death. I think there was a reputation that he was in his dotage.

Mr. WORTHINGTON. That is what I mean.

Senator OVERMAN. Let me ask one question that occurs to me right there, Mr. Worthington.

Mr. WORTHINGTON. Certainly, Senator.

Senator OVERMAN. Will you tell me, Mr. Stephens, why it was that the church interfered in behalf of Kearns when he was elected and why they were not for him this time? Was there any reason?

Mr. STEPHENS. I can not say why President Snow, if he was for him, was for him; but at the present time there is a different president. President Smith is generally understood to be unfavorable to the church mixing in political affairs.

Mr. WORTHINGTON. The expression was used by the chairman that President Smith boasted of the fact that he was living and rearing children by his five wives. Did you ever hear of his boasting of it or saying anything about it in a public way until this committee brought him here and required him on the stand to tell about it?

Mr. STEPHENS. I did not know it myself.

Mr. WORTHINGTON. And have you heard that he has in anywise boasted of it, except that he has answered the questions put to him here by the committee?

Mr. STEPHENS. I did not know it. I did not know he had any recent plural children. I had heard rumors that he was living with his plural wives.

Mr. WORTHINGTON. In reference to what has been said about the State, from time to time, down to 1896, making legitimate the unfortunate children of these plural marriages, do you happen to remember that it was in 1852 that Brigham Young openly, as the head of the church, proclaimed the covenant relating to celestial marriage and polygamy?

Mr. STEPHENS. That that was the date when it was proclaimed?

Mr. WORTHINGTON. That it was about that date?

Mr. STEPHENS. I have heard it referred to in these proceedings. I have never looked up the record myself.

Mr. WORTHINGTON. You know, of course, that at that time the Territory of Utah, where Brigham Young and the Mormons were, was under the jurisdiction of the United States?

Mr. STEPHENS. It was, sir.

Mr. WORTHINGTON. And of course the thing could have been crushed then, in its incipency, if the United States had acted?

Mr. STEPHENS. I suppose it could.

Mr. WORTHINGTON. Did you ever hear that the United States did anything to put a stop to it or to affect it until the year 1862, when the Edmunds Act was passed?

Mr. STEPHENS. I never heard of anything being done until that time.

Mr. WORTHINGTON. And by that act did not the people of the United States, through their act of Congress, make legitimate all the children who had been born in those plural marriages down to the date of the passage of that act on the 22d of March, 1862, and all that might be born within nine months and eleven days thereafter?

Mr. STEPHENS. I think those are the terms of the act.

Mr. WORTHINGTON. And when the Edmunds-Tucker Act was passed in 1887 did not Congress again make legitimate all the unfortunate children of marriages of that kind down to the date of the passage of the act in 1887, and all that might be born for twelve months afterwards?

Mr. STEPHENS. I do not remember the time afterwards, but it legitimized the children.

The CHAIRMAN. You do not recall any act of Congress permitting them to live in polygamious cohabitation for the balance of their lives, do you?

Mr. STEPHENS. I do not, Senator.

Mr. WORTHINGTON. Nor do you recollect any act of the State to that effect, I suppose?

Mr. STEPHENS. None whatever.

Mr. WORTHINGTON. Let me ask you further. Is it not a fact well known, and that took place under your own observation, that after the manifesto was proclaimed in 1890 and down to the time the State was admitted into the Union in 1896, the Federal authorities practically made no prosecutions for polygamious cohabitation except here and there a sporadic case?

Mr. STEPHENS. They became less and less, Colonel Worthington.

Mr. WORTHINGTON. Did you ever hear the rumor, which was testi-

fied to here by one witness, Judge McCarty, that, as a matter of fact, instructions were sent from the headquarters of the country, at Washington here, to the prosecuting officers not to prosecute such cases?

Mr. STEPHENS. I never heard of such a thing before. When I was prosecuting attorney I was at full liberty to prosecute, and did prosecute.

Mr. WORTHINGTON. And that was when?

Mr. STEPHENS. That was up to June 30, 1893; and I prosecuted not only for unlawful cohabitation, but for other kindred offenses of that kind.

Mr. WORTHINGTON. Mr. Stephens, Mr. Tayler asked you one question which seemed to me to be almost an insult, and I think you ought to have a chance to say what you think of it, if it had the meaning I impute to it, and what the fact is.

Mr. TAYLER. Well, I withdraw it.

Mr. WORTHINGTON. He said: "You do not hear much, do you?" Have you been, in your testimony here or in your conduct out there, attempting to favor the Mormons and to conceal anything that might occur?

Mr. STEPHENS. Colonel Worthington, I came down here to testify just as fully and fairly as I could, no matter whom it hit, and I notified counsel on your side that if you put me on the stand you must take your chances.

Mr. WORTHINGTON. Notwithstanding which we put you on the stand.

Mr. STEPHENS. I am here.

Mr. WORTHINGTON. You said, in answer to a question by Mr. Tayler, I think—but it is no matter by whom—that you thought it would be right now, as I understand you, to make legitimate these little people who have come into the world lately—since 1896—as the fruit of plural marriages?

Mr. STEPHENS. I do, sir.

Mr. WORTHINGTON. Do you apply that to the cases where recent plural marriages occur?

Mr. STEPHENS. No, sir; I would not.

Mr. WORTHINGTON. Do you happen to know that the Congress of the United States, in making a new code for the District of Columbia a few years ago, changed our law so as to allow all illegitimate children to inherit from their mothers?

Mr. STEPHENS. I do not know about it, but I know it ought to be so. Senator OVERMAN. That is the common law, is it not?

Mr. WORTHINGTON. No, sir; it was against our law, and Congress changed it a few years ago.

Mr. TAYLER. Then it would agree with the common law, not using "common" technically. It is true everywhere else, so far as I know.

Mr. WORTHINGTON. You said that some politicians seek to get church influence. Do you mean to apply that to either political party or all parties?

Mr. STEPHENS. To all parties. Politics are the same in Utah as they are elsewhere. If a politician thinks he can pull a string he will do it.

Mr. WORTHINGTON. I am glad we do not have politics in the District. I would like to ask you one question, Mr. Stephens, which has

been asked of other witnesses, what you think of the Mormon Church and its effect upon the community in general outside of this question of polygamy?

Mr. STEPHENS. Outside of the doctrine of polygamy, with the matter of unlawful cohabitation, I think the general influence of the Mormon Church is uplifting on its people. I rank it to a degree with other churches, other religions, in that respect.

The CHAIRMAN. Did I understand you to say you are a member of the Presbyterian Church?

Mr. STEPHENS. No, sir; I am not a member of the Presbyterian Church.

The CHAIRMAN. I thought you said you were.

Mr. STEPHENS. No, sir.

The CHAIRMAN. Are you a member of any church?

Mr. STEPHENS. I am a member of the Congregational Church; but since you ask me the question, I think I can say, Senator Burrows, that I have been——

The CHAIRMAN. I did not intend to inquire into it at all.

Mr. STEPHENS. I was going to explain my situation. I have been attending another church quite a good deal lately.

The CHAIRMAN. That does not matter.

Mr. WORTHINGTON. That is all, Mr. Chairman.

Senator McCOMAS. Mr. Stephens, so far as I have heard him, seems to be exceedingly intelligent, candid, frank, and fair, and I do not want to misunderstand him.

Did I understand you just now, Mr. Stephens, to say, in response to Mr. Worthington, or perhaps earlier, that it was a square fight between the Mormon Church and Mr. Thatcher, and Mr. Thatcher was defeated?

Mr. STEPHENS. It was. He threw down the gantlet to the church and they took it up and fought it out, and he was defeated.

Senator McCOMAS. The church was for Senator Kearns as a candidate for the Senate?

Mr. STEPHENS. I say that common repute in our community is very general that the Senator had the influence of the church, or of President Snow, at least, in his election.

Senator McCOMAS. And by that common repute—that, therefore, by that influence he was elected?

Mr. STEPHENS. Many feel that he could not have been if it had not been for it, Senator.

Senator McCOMAS. I understood you so. That is the substance of it.

Mr. STEPHENS. Yes; that is the substance of it.

Senator McCOMAS. And that later the Mormon Church and its influence was against Senator Kearns, and that therefore, by common repute, he was defeated?

Mr. STEPHENS. No; I would not say that it was against Senator Kearns. I think since President Smith has been the first president he has endeavored to keep the church out of politics entirely, and to take no hand in it in any way.

Senator McCOMAS. So far as you have observed, heard, or know, the church did not in any wise take any part in defeating Senator Kearns this last time?

Mr. STEPHENS. I think not.

Senator McCOMAS. None at all?

Mr. STEPHENS. Oh, no; I think not.

Senator McCOMAS. And the Mormon Church's influence approved the candidacy of Senator Smoot, and he was thereupon elected.

Mr. STEPHENS. He had the consent of the church to be a Senator, to make the canvass, and he was elected. Those facts existed.

Senator McCOMAS. Those facts I know, but I want to know as to the repute of which you speak in the community and the State where he was elected.

Mr. STEPHENS. Oh, as to whether he was elected by reason of being an apostle?

Senator McCOMAS. Yes; by reason of having the approval and the influence of the Mormon Church to aid his candidacy?

Mr. STEPHENS. I would say, as I said this morning, that he was handicapped by being an apostle——

Senator McCOMAS. By being an apostle, but I am speaking about the influence.

Mr. STEPHENS. I was going to continue, if you will permit me.

Senator McCOMAS. Proceed.

Mr. STEPHENS. I will say further, that I do not think the sentiment is that the church took any part in influencing his election. It seemed to be a square Republican and Democratic fight in 1902. The parties were well lined up, and it was fought out upon party lines. The State had gone Republican in 1900 and continued so, and was still more so in this last election.

Senator McCOMAS. Do you mean, Mr. Stephens, that the friendliness or unfriendliness of the Mormon Church and the influence of that church was not an appreciable element in the canvass and the election of Senator Smoot?

Mr. STEPHENS. I do not think it was. I do not myself think it entered into it. That is my mature judgment.

Senator McCOMAS. What do you say in respect of the new Senator just elected—Sutherland?

Mr. STEPHENS. Absolutely that it had nothing to do with it.

Senator McCOMAS. Nothing at all?

Mr. STEPHENS. Senator Sutherland was the legitimate candidate, was highly respected, and has the confidence of the Gentile people. He was the natural candidate.

Senator McCOMAS. He had served in Congress, also. I believe?

Mr. STEPHENS. He had served in Congress; he had been active in the Republican party, and he was the natural candidate of the Republican party.

The CHAIRMAN. Have you anything else, gentlemen?

Mr. TAYLER. When Mr. Smoot announced his candidacy in May, 1902, nobody had any doubt about his being elected Senator if there was a Republican legislature, had they?

Mr. STEPHENS. I think he was looked upon as the most probable candidate, and when we came to the election in the fall, on the stump, it was argued on both sides.

The Democrats argued that Mr. Smoot would be the one if the Republicans won, and that Rawlins would be elected if the Democrats won.

Mr. TAYLER. That is all.

Mr. WORTHINGTON. The Democrats argued that because he was an apostle he ought to be defeated, did they not?

Mr. STEPHENS. We did. We worked that up for all we could.

Mr. WORTHINGTON. In reference to this matter of Kearns, about which you have been asked again, can you tell us what was the comparative standing of the Gentiles in the legislature of the State of Utah when Kearns was elected and when he was not elected, four years later?

Mr. STEPHENS. The comparative standing of Gentiles, as to the number?

Mr. WORTHINGTON. Yes; I mean as to whether the Gentiles generally did not support him when he was elected and whether they were not, in large measure, opposed to him when he came up for reelection?

Mr. STEPHENS. Why, a number of Gentiles supported him, and a great many opposed him. Do you mean at the time he was elected?

Mr. WORTHINGTON. At the time he was elected. Let us take that first. When he was elected he was supported by a number of Gentiles?

Mr. STEPHENS. Oh, yes.

Mr. WORTHINGTON. Could you tell us what was the proportion? I suppose that matter was settled, as it usually is, in a caucus?

Mr. STEPHENS. It was settled in a caucus. I could not say. I am not informed as to the figures in regard to that.

Mr. WORTHINGTON. You could not tell us the number of Gentiles by whom he was supported?

Mr. STEPHENS. No.

Mr. WORTHINGTON. And the number of Mormons, in the respective caucuses, and how they stood?

Mr. STEPHENS. No; I could not. And so far as the last election was concerned, he had publicly announced that he would not be a candidate.

Mr. WORTHINGTON. He had?

Mr. STEPHENS. Before the legislature met.

Senator OVERMAN. He saw there was no chance for him at all, I suppose.

Mr. WORTHINGTON. We have learned that you had there in the last year an American party, which was not either with the Democrats or the Republicans, but stood up independently. That is so, is it not?

Mr. STEPHENS. Yes, sir.

Mr. WORTHINGTON. Was not Senator Kearns with that party?

Mr. STEPHENS. He was with that party.

Mr. WORTHINGTON. He was not a Republican in that campaign?

Mr. STEPHENS. He was supporting the American ticket. The Tribune was the principal organ.

Mr. WORTHINGTON. And the principal office, or the principal platform—I am not used to these political terms—the principal plank in the platform of that party was opposition to the Mormon Church, was it not?

Mr. STEPHENS. It was.

Senator OVERMAN. As a factor in politics or in general opposition to the church? The American party was against the Mormon Church generally, was it?

Mr. STEPHENS. Oh, the American party was organized in opposition to the Mormon Church.

Senator OVERMAN. As a church or as a factor in politics?

Mr. STEPHENS. Oh, I did not understand you, Senator. I think it would be as a factor in politics. I think that was the statement.

The CHAIRMAN. Do you mean to be understood as saying that the organization of this party was hostile to the church or hostile to the practice of these leaders?

Mr. STEPHENS. I think the platform was hostility to the church in politics.

The CHAIRMAN. It said nothing about polygamy or polygamous cohabitation?

Mr. STEPHENS. I do not know whether that is referred to in their declaration or not.

The CHAIRMAN. Have you the platform?

Mr. STEPHENS. I have not. I do not know whether it was referred to.

The CHAIRMAN. When was this party organized?

Mr. STEPHENS. It was organized this last fall.

The CHAIRMAN. Since this investigation began, a year ago?

Mr. STEPHENS. Oh, yes; since this investigation began. It was organized in 1904.

The CHAIRMAN. Have you anything further, gentlemen?

Mr. WORTHINGTON. Nothing else, Mr. Chairman.

The CHAIRMAN. Who is your next witness?

Mr. WORTHINGTON. There is a matter here, Mr. Chairman, in respect to which the record should be in somewhat better shape than it is.

You will remember that after evidence had been introduced here last spring to the effect that Apostle Teasdale, having a legal wife living, had taken another wife, we had an executive session, and that was supposed to be, and it was, so far as we know, a private session, but it was telegraphed all over the country that it was developed in that session that things had happened in Apostle Teasdale's case which it had been shown were unfit for publication, or unprintable. Now, while the members of the committee, or those who were present at that executive session, know what took place, there is nothing in this record, and there will be nothing when the matter goes before the Senate, which will show what the situation really was.

You will remember that we had before the committee in that executive session the transcript of the proceedings in the case in which Apostle Teasdale obtained a divorce, or a decree of nullification rather, as to his first marriage, and also the testimony upon which that decree was based. So far as I am concerned I see no reason why the transcript of the record, the ordinary showing which is made when a judicial proceeding is called into inquiry somewhere else, should not be put in here in open session, and I see no reason why the testimony should be put in, in open session or in closed session, and unless there is some objection of that kind I now offer in evidence the record. I do not care to read any part of it.

Senator McCOMAS. Do you desire to put in the whole record or just parts of it?

Mr. WORTHINGTON. It may be that we can agree with counsel on the other side in respect to parts of it. If not, we would like to have the whole record go in. I think it is due to Apostle Teasdale to say that there is nothing in the record that reflects unfavorably upon him.

The CHAIRMAN. I will ask counsel to defer those matters for the present, and they can be attended to later. If there are other witnesses here, the committee would prefer to have you call them this afternoon and go on with the case.

Mr. WORTHINGTON. Very well; I will recall Doctor Talmage.

TESTIMONY OF JAMES E. TALMAGE--Resumed.

JAMES E. TALMAGE, having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. Mr. Chairman, while Mr. Jensen was upon the stand he was requested to obtain certain information for the committee. I have not at the moment a reference to the page.

The CHAIRMAN. When who was upon the stand?

Mr. WORTHINGTON. Mr. Jensen. He was here last spring. He was requested to obtain for the committee a list of the principal officials of the Mormon Church. There was a question as to who were the stake presidents, the bishops, and so on. We have been furnished by him with a list of all the officers of the church, including the stake presidency and counselors, and clerks, and all the bishops and their counselors and clerks, as well as the head officials, whom we know about already.

The CHAIRMAN. Have you any objection to that going in, Mr. Tayler?

Mr. TAYLER. What is it: a list of all the officers?

Mr. WORTHINGTON. A list of all the officials of the church down to bishops, and their counselors and clerks.

I want to say, further, that we have had an asterisk placed opposite the names of certain of these men, and those are the persons who are known to be polygamists, and are believed to be the only ones who are polygamists. That was the object the committee had in mind when the inquiry was made.

Doctor Talmage, have you gone over this list carefully?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Are you acquainted with all the leading officials of the church: I mean those who are called the general officers, the first presidency, the members of the council of apostles, the patriarch, the first seven presidents of the seventies, the presiding bishopric, the assistants to the historian, and the members of the church board of education? I mean do you know them personally or by reputation?

Mr. TALMAGE. I know each one of them personally.

Mr. WORTHINGTON. You know this is correct as to them?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. And as to the other officers, are you acquainted with them generally?

Mr. TALMAGE. I am acquainted with many of them.

Mr. WORTHINGTON. Have you found the list correct when you have gone over it?

Mr. TALMAGE. Wherever I find the name of a man with whom I am acquainted, I find that the statement of his office is correct.

Mr. WORTHINGTON. And also the indication with reference to his status as to polygamy?

Mr. TALMAGE. And as to his reputation, as far as I know; yes, sir.

Mr. WORTHINGTON. That is what I mean.

The CHAIRMAN. Let me see that paper a moment.

Mr. WORTHINGTON. I wish to say, Mr. Chairman, in regard to that paper, that I was in Salt Lake recently, and in going over the record as to the matters which we should attend to I found this call by the committee for this information. I reminded the presidency that that information had not been furnished and asked them to have it compiled and sent to me, so as to be given to the committee, as had been promised.

The CHAIRMAN. I desire to ask the witness a question. You have certain names marked here——

Mr. WORTHINGTON. He has had nothing to do with that, Mr. Chairman. That was done when it was sent to me. It was done by the presidency.

The CHAIRMAN. Have you examined the paper since it was marked?

Mr. TALMAGE. I have examined every name on the paper, Mr. Chairman.

The CHAIRMAN. What do these marks indicate?

Mr. TALMAGE. I am told they are intended to indicate the names of men who, by repute at least, are polygamists.

The CHAIRMAN. What do you say as to the balance of the list, by reputation, in reference to their being polygamists, or any of them?

Mr. TALMAGE. I know of no man opposite whose name there is no asterisk on that list who is, by repute, a polygamist, and I do not know that some of those who——

The CHAIRMAN. Have you inquired as to each one? Have you made inquiry in the community where they reside as to each one of these?

Mr. TALMAGE. No, sir.

The CHAIRMAN. You made no investigation, then, of that?

Mr. TALMAGE. No, sir. I have not seen that list until recently.

Mr. WORTHINGTON. This call is to be found on page 540, volume 1.

The CHAIRMAN. I think there is no question, Mr. Worthington, about the paper being admissible as showing who are the officials of this organization and including these marks as indicating those who are reputed to be polygamists, together with the Doctor's statement that he knows nothing about the balance of them.

Senator McCOMAS. What do you understand is meant by this lead-pencil star or ink cross mark?

Mr. TALMAGE. I know not who put those marks there.

Senator McCOMAS. For instance, there in one opposite the name of Christen Jensen.

Mr. WORTHINGTON. That means, Senator, that they are polygamists. Whenever the star or asterisk is found opposite a name, it means that man is a polygamist, except that occasionally there is an interrogation mark, and that means there was a doubt.

Senator McCOMAS. And a dot means that a person is a polygamist?

Mr. WORTHINGTON. Those are asterisks.

Mr. TAYLER. There are some in lead pencil and some in type.

Mr. WORTHINGTON. They all mean the same thing.

I may say for the information of the committee that, of course, this is a matter which, if we were to go into it with strictly legal evidence,

would require us to send for the ones who prepared the paper, and take a good deal of time. This witness has told me, and he will confirm what I say, that he knows that after that list was prepared it was gone over very carefully by the members of the first presidency themselves.

Mr. TALMAGE. I am so informed and so believe; yes, sir.

Mr. WORTHINGTON. It was carefully checked; and this is their statement of who these officers are and which of them are polygamists:

The CHAIRMAN. Let it go into the record.

Mr. TALMAGE. I desire to add to my answer, if I may be allowed. I did not complete my sentence.

Senator McCOMAS. The round dot and the mark would both mean the same thing?

Mr. WORTHINGTON. Yes.

Mr. TALMAGE. I tried to say, Mr. Chairman, that I do not know that all of those whose names are there marked by the star or asterisk are reputed to be polygamists, but I know many of them are. I know of none, however, who are not thus marked who have that reputation.

Mr. WORTHINGTON. Of course, the chairman and the members of the committee will not understand by saying these men are polygamists it necessarily follows they are living in polygamous cohabitation. We do not know about that.

I wish now to ask the Doctor about another matter.

Mr. TAYLER. Let me say this before you go on to the other matter: I see no objection to this going in. It was called for for the purpose of getting a list of the church authorities; but the fact that certain of them are reputed to be polygamists is merely a fact asserted by somebody not here under oath, and I do not want to have it interpreted as signifying any admission on our part that that is a complete list of the polygamists among the authorities of the church, or that it is proof or even a suggestion of proof to that effect.

Mr. WORTHINGTON. It would have this effect, I should say. We also know that Mr. Owen, to whom this paper has just been handed, is better informed, perhaps, than anybody else could be except the heads of the church as to which of these officials of the church are or are not polygamists, and he may be able to give us some information in regard to that, in addition.

Senator McCOMAS. If this witness, who is himself acquainted, or who ought to be acquainted, with the officials of the church, having examined the list with respect to who are or who are not polygamists, finds that those thus marked are to the best of his knowledge and belief—

Mr. WORTHINGTON. These marks were not made by him, Senator.

Senator McCOMAS. I say if he finds that these marks represent and indicate accurately, so far as he knows or has any information, that these persons so marked are polygamists and, so far as his information extends, others thereon are not, I think it is admissible in every way.

Mr. WORTHINGTON. That is all it amounts to.

The CHAIRMAN. And that he has made no inquiry in relation to the others. Let the paper go in.

The paper referred to is as follows:

GENERAL AUTHORITIES OF THE CHURCH OF JESUS CHRIST OF
LATTER-DAY SAINTS.

THE FIRST PRESIDENCY.

*Joseph F. Smith, president of the Church of Jesus Christ of Latter-Day Saints in all the World.

John R. Winder, first counselor to the president of the church.

Antho[n] H. Lund, second counselor to the president of the church.

MEMBERS OF THE COUNCIL OF APOSTLES.

*Francis M. Lyman, president of the quorum of apostles; *John Henry Smith, George Teasdale, *Heber J. Grant, *John W. Taylor, *Mariner W. Merrill, *Matthias F. Cowley, Rudger Clawson, Reed Smoot, Hyrum M. Smith, George A. Smith, *Charles W. Penrose; John Smith, patriarch of the church.

FIRST SEVEN PRESIDENTS OF THE SEVENTIES.

*Seymour B. Young, senior president; Christian D. Fjeldsted, *Brigham H. Roberts, *George Reynolds, Jonathan G. Kimball, Rulon S. Wells, Joseph W. McMurrin.

THE PRESIDING BISHOPRIC.

William B. Preston, presiding bishop; *Robert T. Burton, first counselor in the presiding bishopric; Orrin P. Miller, second counselor in the presiding bishopric.

ASSISTANTS TO HISTORIAN ANTHON H. LUND.

*Andrew Jenson, assistant; Orson F. Whitney, assistant; *A. Milton Musser, assistant.

MEMBERS CHURCH BOARD OF EDUCATION.

Willard Young, *John Nicholson, *George H. Brimhall, *Joseph M. Tanner, Arthur Winter.

Names of presidency and bishops of the organized stakes of Zion.

ALBERTA STAKE.

Edward J. Wood, president of the stake.

Thomas Duce, first counselor.

Stirling Williams, second counselor.

Sylvester Low, stake clerk.

Bishops.	Wards.
Nathan W. Tanner.....	Ætna.
Mark E. Beazer.....	Beazer (Cardston).
David H. Caldwell, jr.....	Caldwell.
Josiah A. Hammer.....	Cardston.
William R. Sloan.....	Kimball.
Frank Leavitt.....	Leavitt.
Vincent I. Stewart.....	Mountain View.
James H. Rampton.....	Taylor.

ALPINE STAKE.

Stephen L. Chipman, president of the stake.
 James H. Clark, first counselor in stake presidency.
 Abel J. Evans, second counselor in stake presidency.
 E. J. Clayson, stake clerk.

Bishops.	Wards.
Albert Marsh	Alpine.
James T. Gardner	American Fork (First).
Joseph H. Storrs	American Fork (Second).
J. R. Hindlay	American Fork (Third).
* W. B. Smith	American Fork (Fourth).
Eli Bennett	Cedar Valley.
Andrew Field	Lehi (First).
James H. Gardner	Lehi (Second).
Henry Lewis	Lehi (Third).
John Stoker	Lehi (Fourth).
Albert Scobley	Linden.
C. P. Warnick	Manila.
Swen L. Swenson	Pleasantgrove.

BANNOCK STAKE.

Lewis S. Pond, president of the stake.
 William H. Mendenhall, first counselor.
 Joseph T. Pond, second counselor.
 Joseph H. Bevins, stake clerk.

Bishops.	Wards.
Rasmus G. Gorgensen	Central.
John Balfour	Chesterfield.
E. F. Hale	Cleveland.
James W. Hubbard	Bench.
Christian H. Poulsen	Grace.
Nels J. Hogan	Hatch.
F. H. Reddish	Lund.
William W. Williams	Mound Valley.
* Thomas H. Horsley	Soda Springs.
Ira Hogan	Thatcher.
W. M. Harris	Trout Creek.

BEAR LAKE STAKE.

* William Budge, president of the stake.
 J. H. Hart, first counselor.
 William L. Rich, second counselor.
 J. U. Stucki, stake clerk.

Bishops.	Wards.
A. R. Wright	Bennington.
John Kunz	Bern (Ovid).
Alma Findlay	Bloomington.
L. P. Nielsen, presiding elder	Cokeville (Wyo).
Samuel Humpherys	Dingle.
J. W. E. Stock	Fish Haven.
A. D. Hirschi	Geneva.
Wilford W. Richards	Georgetown.
James Haymas	Lanark.
E. N. Austin	Liberty.
Wilford W. Clark	Montpelier.
Edgar M. Lindsay	Nounan.
Philemon Lindsay	Ovid.
H. T. Humpherys	Paris (First).
* Robert Price	Paris (Second).
Samuel W. Hart	Raymond.
Elijah C. Keetch	St. Charles.
Samuel E. Hymas	Sharon.
Charles G. Keetch	Wardboro.
Samuel Weston	Garden City.
Ira Nebeker	Laketown.
Isaac T. Price	Round Valley.

BEAVER STAKE.

Charles D. White, president of the stake.
J. F. Tolton, first counselor.
Warren Shepherd, second counselor.
W. G. Bickley, stake clerk.

Bishops.	Wards.
F. T. Gunn.....	Adamsville.
John M. Murdock	Beaver.
William Ashworth	Frisco.
William Edwards.....	Greenville.
Reuben W. Dotson.....	Minersville.
J. T. Tanner.....	Milford.

BENSON STAKE.

William H. Lewis, president of the stake.
* Alma Merrill, first counselor.
Brigham A. Hendricks, second counselor.

Bishops.	Wards.
John Ravsten	Clarkston.
John C. Larsen	Coveville.
William Waddoups	Lewiston.
Martin C. Rigby	Newton.
* Thomas H. Merrill	Richmond.
Newton Woodruff.....	Smithfield.
B. F. Bingham	Trenton.

BIG HORN STAKE.

Byron Sessions, president.
* Jesse W. Crosby, first counselor.
Charles A. Welch, second counselor.

Bishops.	Wards.
James S. McNiven	Burlington.
Fred Kohler.....	Byron.
William C. Partridge.....	Cowley.
Haskel S. Jolley	Lovell.
George M. Porter	Otto.
Arthur Barney	Perry Branch.
Edward Gwyn.....	Wood River branch.

BINGHAM STAKE.

James E. Steel, president of the stake.
Robert L. Bybee, first counselor.
A. J. Stanger, second counselor.
Moses Wright, stake clerk.

Bishops.	Ward
Freemont County:	
Alfred K. Dabell.....	Grant.
John G. Morgan	La Belle.
R. F. Jardine.....	Lewisville.
John W. Hart	Menan.
George A. Cardon	Rigby.
Alma A. Anderson.....	Rudy.
Bingham County:	
Christian Anderson	Ammon.
James Thomas	Eagle Rock.
Charles W. Rockwood	Iona.
Parley J. Davis	Milo.
* John T. Caldwell	Palisade.
John S. Howard.....	Shelton.
A. B. Simmons.....	Willow Creek.
George H. Muir	Gray.

BLACKFOOT STAKE.

Elias S. Kimball, president of the stake.
 Lorenzo R. Thomas, first counselor.
 Don C. Walker, second counselor.
 J. T. Carruth, stake clerk.

Bishops.	Wards.
William M. Dye	Basalt.
Frank Heese	Blackfoot.
Lars Sorenson	Goshen.
Adam Yancy	Groveland.
James King	Lost River.
Warren P. Lindsay	Moreland.
George B. Wintle	Riverside.
John F. Shelly	Shelly.
Christian Anderson	Taylor.
George Y. Pugmire	Tilden.
John R. Williams	Thomas.
J. J. Hammer	Woodville.

BOXELDER STAKE.

*Charles Kelly, president of the stake.
 Lucius A. Snow, first counselor.
 Oleen N. Stohl, second counselor.
 S. N. Lee, stake clerk.

Bishops.	Wards.
John B. McMaster	Brigham city (First).
A. Valentine	Brigham city (Second).
Lorenzo N. Stohl	Brigham city (Third).
Brigham Wright	Brigham city (Fourth).
L. F. Johnson	Bear River City.
Francillo Durfey	Beaver (Collinston).
J. M. Stokes	Bothwell.
George C. Dewey	Deweyville.
Peter M. Hansen	Elwood.
W. L. Grover	Garland.
Thomas Wheatley, jr	Honeyville.
*Michael Schow	Mantua.
Thomas Yates	North (Brigham city).
James M. Palmer	Park Valley.
James Nielsen	Perry.
*A. Goodliffe	Snowville.
Thomas W. Roe	Stone.
James Nielsen	Thatcher.
William J. Facer	Willard.

CACHE STAKE.

Joseph Morrell, president of the stake.
 *Isaac Smith, first counselor
 W. W. Maughan, second counselor.
 *Joseph E. Wilson, stake clerk.

Bishops.	Wards.
W. H. Ballard	Benson.
N. W. Crookston	Greenville.
Charles G. Hyde	Hyde Park.
Joseph E. Cardon	Logan (First).
Anthon Anderson	Logan (Second).
Richard Yates	Logan (Third).
*Thomas X. Smith	Logan (Fourth).
*William Hyde	Logan (Fifth).
Hans A. Hanson	Logan (Sixth).
C. J. Barson	Logan (Seventh).
Frederick Theuerer	Providence.

CASSIA STAKE.

William T. Jack, president of the stake.
John L. Smith, first counselor.
William T. Harper, second counselor.
Marcus O. Funk, stake clerk.

Bishops.	Wards.
Thomas E. Harper.....	Albion.
Thomas O. King.....	Almo.
A. S. Sagers.....	Basin.
George S. Harris.....	Blaine.
Thomas Taylor.....	Elba.
Adam G. Smith.....	Marion.
Hector C. Haight.....	Oakley (First).
R. H. Hunter.....	Oakley (Second).
Oliver Pickett.....	Oakley (Third).
Thomas Blackburn, jr.....	Yost.
David H. Toyn.....	Grouse Creek.

DAVIS STAKE.

Joseph H. Grant, president of the stake.
James A. Eldredge, first counselor.
Jesse M. Smith, second counselor.
John J. Smith, stake clerk.

Bishops.	Wards.
Melvin H. Randall.....	Centerville.
Orlando D. Haddock.....	Clinton.
J. M. Secrist.....	Farmington.
Peter Barton.....	Kaysville.
Daniel B. Harris.....	Layton.
Richard E. Egan.....	South Bountiful.
Gilbert Parker.....	South Hooper.
George W. Kendall.....	South Weber.
David Cook.....	Syracuse.
David Stoker.....	East Bountiful.
Dan. Muir.....	West Bountiful.
David E. Layton.....	West Layton.

EMERY STAKE.

Reuben G. Miller, stake president.
John H. Pace, first counselor.
Henry G. Mathis, second counselor.
Arthur W. Horsley, stake clerk.

Bishops.	Wards.
John Y. Jensen.....	Castledale.
William H. Hichcock, P. E.....	Clawson branch
L. P. Overson.....	Cleveland.
Alonzo Brinkerhoff.....	Emery.
John D. Kilpack.....	Ferron.
James W. Nixon.....	Huntington.
Christian M. Miller.....	Lawrence.
Hans P. Rasmussen.....	Molen.
Jasper Robertson.....	Orangeville.
Andrew Young, P. E.....	Castle Gate.
Ernest S. Horsley.....	Price.
James N. Miller.....	Spring Glen.
John Potten.....	Sunnyside.
Eugene E. Branch.....	Wellington.
Manassa J. Blackburn.....	Deseret Lake branch
Franklin Hillmer.....	Green River.

ENSIGN STAKE.

Richard W. Young, president of the stake.
 Joseph S. Wells, first counselor.
 John M. Knight, second counselor.
 William A. Shepherd, stake clerk.

Bishops.	Wards.
Salt Lake City:	
* Robert Morris	Eleventh Ward.
Thomas A. Williams	Twelfth Ward.
F. E. Platt	Thirteenth Ward.
Orson F. Whitney	Eighteenth Ward.
* George Romney	Twentieth Ward.
Marcellus S. Woolley	Twenty-first Ward.
James Maxwell	Twenty-seventh Ward.

FREEMONT STAKE.

Thomas E. Bassett, president of the stake.
 James W. Webster, first counselor.
 Charles H. Woodmansee, second counselor.
 Alma M. Carbine, stake clerk.

Bishops.	Wards.
George Briggs	Archer.
Conrad Walz	Burton.
A. S. Farnsworth	Chester.
James Green	Conant Branch.
H. H. Hunter	Egin.
A. P. Anderson	Independence.
George A. Hibbard	Island.
William Purdie	Lima Branch.
C. P. Bowen	Lyman.
James H. Wilson	Marysville.
M. J. Kerr	Ora.
Daniel G. Miller	Parker.
Albert Heath	Plano.
Thomas E. Ricks	Rexburg (First).
T. J. Winter	Rexburg (Second).
W. H. Carbine	St. Anthony.
V. C. Hegsted	Salem.
Martin Austin	Sugar.
Jacob Johnson	Teton.
J. J. Wellard	Twin Groves.
P. L. Cutler	Vernon.
S. W. Orme	Wilford.

GRANITE STAKE.

Frank Y. Taylor, president of the stake.
 Edward Bennion, first counselor.
 John M. Cannon, second counselor.
 William McEwan, stake clerk.

Bishops.	Wards.
Salt Lake County:	
.....	Big Cottonwood.
John Neff	East Mill Creek.
Henry F. Burton	Farmers.
James Jensen	Forest Dale.
Daniel McRae	Granger.
William M. Mackey	Grant.
Laronzo Day	Hunter.
* James C. Hamilton	Mill Creek.
Uriah G. Miller	Murray.
Orson Sanders	South Cottonwood.
Willen M. Atwood	Sugar House.
Heber Bennion	Taylorville.
James D. Cummings	Wilford.
Joseph A. Cornwall	Winder.

HYRUM STAKE.

* William C. Parkinson, president of the stake.
George O. Pitkin, first counselor.
I. C. Thorensen, second counselor.
W. H. Israelsen, stake clerk.

Bishops.	Wards.
J. J. Facer	Avon.
Charles O. Dunn	College.
H. F. Liljenquist	Hyrum (First).
A. A. Allen, Jr.	Hyrum (Second).
N. J. Nielsen	Hyrum (Third).
M. D. Bird	Mendon.
John E. Roueche	Millville.
L. P. Christiansen	Mount Sterling.
Samuel Oldham	Paradise.
E. R. Owen	Wellsville.

IOSEPA COLONY.

Thomas A. Waddoups, president of the Hawaiian Colony, Iosepa, Skull Valley, Tooele County, Utah.

JORDAN STAKE.

Hyrum Goff, president of the stake.
James Jensen, first counselor.
* W. W. Fitzgerald, second counselor.
Niels Lind, stake clerk.

Bishops.	Wards.
William B. Winters	Bingham.
William C. Crump	Bluffdale.
Alva Butler	Butler.
James P. Jensen	Crescent.
W. B. Ennis	Draper.
Joseph B. Wright	East Jordan.
James A. Muir	Granite.
James S. Crane	Herriman.
Gordon S. Bills	Riverton.
W. D. Kuhre	Sandy.
Thomas Blake	South Jordan.
W. C. Burdon	Union.
John A. Egbert	West Jordan.

JUAB STAKE.

James W. Paxman, president of the stake.
Isaac H. Grace, first counselor.
John W. Ord, second counselor.
Langley A. Bailey, stake clerk.

Bishops.	Wards.
Jacob B. Higginson, P. E.	Diamond.
Daniel Connelly	Eureka.
James E. Taylor	Levan.
Robert C. Stephenson	Juab.
Heber Olsen, P. E.	Mona.
Fred Lundberg	Mammoth.
W. H. Pettigrew	Nephi (First).
Thomas H. G. Parks	Nephi (Second).
J. Mount Taylor, P. E.	Silver City.

JUAAREZ STAKE, MEXICO.

Anthony W. Ivins, president of the stake.
 *Heleman Pratt, first counselor.
 Guy C. Wilson, second counselor.
 Junius Romney, stake clerk.

Bishops.	Wards.
Geo. M. Haws	Colonia Chuichupa.
*William D. Johnson, jr.	Colonia Diaz.
S. John Robinson	Colonia Dublin.
John T. Wheaton	Colonia Garcia.
Joseph C. Bentley	Colonia Juarez.
Orson P. Brown	Morelos.
John E. Steiner	Colonia Pacheco.
*George N. Nagle	Oaxaca.

KANAB STAKE.

*Edwin D. Woolley, president of the stake.
 *Thomas Chamberlain, first counselor.
 Joel H. Johnson, second counselor.
 Howard Chamberlain, stake clerk.

Bishops.	Wards.
Asa W. Judd	Fredonia.
R. C. Cutler	Glendale.
G. D. McDonald	Graham.
H. S. Cutler	Kanab.
Hans C. Sorensen	Mount Carmel.
*H. W. Esplin	Orderville.

LIBERTY STAKE.

Hugh J. Cannon, president of the stake.
 Arnold H. Schulthess, first counselor.
 Philip S. Maycock, second counselor.
 W. Scott Weiler, stake clerk.

Bishops.	Wards.
Salt Lake City:	
Joseph Warburton	First Ward.
Heber C. Iverson	Second Ward.
Oliver Hodgson	Third Ward.
Oscar F. Hunter	Eighth Ward.
Jabez W. West	Ninth Ward.
Joseph Christensen	Tenth Ward.
Edwin S. Sheets	Thirty-first Ward.
Robert A. Brighton	Thirty-third Ward.

MALAD STAKE.

Milton H. Welling, president of the stake.
 William H. Gibbs, first counselor.
 Moroni Ward, second counselor.
 Edward Gibbs, stake clerk.

Bishops.	Wards
David Bowen, P. E.	Arbon.
Joseph A. Jones	Cherry Creek.
James H. Hess	Fielding.
Thomas H. Archibald	Plymouth.
James H. Gibbs	Portage.
Myron Richards	Riverside.
George M. Ward	Washakie.
Heber A. Holbrook	Holbrook.
William H. Richards	Malad.
Lewis D. Jones	Pleasant View.
Daniel E. Price	Samaria.
James P. Harrison	St. Johns.
Joseph R. Harris	Woodruff.

MARICOPA STAKE.

C. R. Hakes, president of the stake.
W. J. Le Baron, first counselor.
Isaac Dana, second counselor.
George A. Macdonald, stake clerk.

Bishops.		Wards.
Alexander Hunsaker.....	Alma.	
Soren C. Sorenson	Lehi.	
J. M. Horne.....	Mesa.	
George M. Tiffany	Papago.	
Frank C. Randall.....	Pine.	

MILLARD STAKE.

Alonzo A. Hinckley, president of the stake.
Thomas C. Callister, first counselor.
George A. Seaman, second counselor.
William A. Reeve, stake clerk.

Bishops.		Wards.
Oscar M. Fulmer	Abraham.	
Hyrum S. Cahoon	Deseret.	
Christian Anderson	Fillmore.	
William F. Pratt.....	Hinckley.	
Anthony Stephenson.....	Holden.	
Christian F. Christiansen.....	Kanosh.	
Rodney B. Ashby.....	Leamington.	
Neil M. Stewart	Meadow.	
Peter Anderson	Oak Creek.	
John Styler	Oasis.	
Orvil L. Thompson	Scipio.	

MORGAN STAKE.

* Daniel Heiner, president of the stake.
William H. Ritch, first counselor.
William W. Francis, second counselor.
William W. Francis, stake clerk.

Bishops.		Wards.
Frank D. Hopkins.....	Croyden.	
William Giles	Milton.	
Charles Turner	Morgan (South).	
O. B. Anderson.....	Morgan (North).	
Joseph B. Robins.....	Peterson.	
Joseph Durrant.....	Porterville.	
A. D. Dickson	Richville.	

NEBO STAKE.

J. S. Page, jr., president of the stake.
Hyrum Lemmon, first counselor.
Henry Gardner, second counselor.
Samuel D. Moor, stake clerk.

Bishops.		Wards.
Isaac Hanson	Benjamin.	
Peter Okleberry	Goshen.	
John Roundy.....	Knightsville.	
Lorenzo Argyle.....	Lake Shore.	
William D. C. Markham.....	Leland.	
A. T. Money	Palmyra.	
J. A. Loveless	Payson (First).	
Jesse S. Taylor.....	Payson (Second).	
David R. Taylor	Salem.	
Joseph M. Holladay	Santaquin.	
Robert W. McKell.....	Spanish Fork (First).	
Benjamin Argyle	Spanish Fork (Second).	
George Hales	Spanish Fork (Third).	
A. J. Hanson	Spanish Fork (Fourth).	
W. J. Taylor	Spring Lake.	

NORTH SANPETE STAKE.

Christian N. Lund, president of the stake.

*Peter Matson, first counselor.

George Christensen, second counselor.

Aaron Hardy, stake clerk.

Bishops.	Wards.
Christen Christensen.....	Chester.
James C. Peterson	Fairview.
C. J. Christensen	Fountain Green.
George F. Morley.....	Freedom.
Hyrum Seeley, presiding elder.....	Indianola.
James W. Stewart	Milburn.
Orlando Bradley.....	Moroni.
Daniel Rasmussen	Mount Pleasant.
James Larsen.....	Mount Pleasant (South).
Laritz O. Larsen	Spring City.
William R. Davis	Wales.

ONEIDA STAKE.

George C. Parkinson, president of the stake.

Solomon H. Hale, first counselor.

Joseph S. Geddes, second counselor.

Charles D. Goaslind, stake clerk.

Bishops.	Wards.
Erastus G. Farmer	Clifton.
William Gorgeson	Cedarville.
Pjilo W. Austin.....	Dayton.
Edwin Bodily	Fairview.
Lorenzo L. Hatch	Franklin.
Lars. Christen Larson	Glendale.
Edwin M. Perkins	Mapleton.
Denmark Jensen.....	Mink Creek.
Walter Hatch	Oxford.
Henry T. Rogers.....	Preston (First).
Hugh S. Geddes.....	Preston (Second).
George H. Carver.....	Preston (Third).
Allen R. Cutler.....	Preston (Fourth).
Leonidas A. Mecham.....	Riverdale.
Philip Quayle.....	Treasurton.
Otto Gaddman.....	Weston.
George T. Benson.....	Whitney.

PANGUICH STAKE.

David Cameron, president of the stake.

*Mahonri M. Steele, first counselor.

James Houston, second counselor.

Hans P. Ipsen, stake clerk.

Bishops.	Wards.
James N. Henderson	Cannonville.
James E. Peterson	Circleville.
Andrew E. Peterson	Circleville.
Andrew P. Schow	Escalante.
Rasmus Lynne	Hatch.
Daniel Golding	Henriville.
*Culbert L. King	Marion.
James B. Haywood	Panguich.
Joseph A. Teppets	Tropic.
Hohn Morrell	Junction.
Rufus A. Allen.....	Kingston.

PAROWAN STAKE.

Uriah T. Jones, president of the stake.
Henry Leigh, first counselor.
John J. G. Webster, second counselor.
William W. Palmer, stake clerk.

Bishops.		Wards.
Henry W. Lunt	Cedar City.	
W. A. Redd	New Harmony.	
Joseph S. Berry	Kanarra.	
Stephen S. Barton	Paragoonah.	
Morgan Richards	Parowan.	
Joseph B. Dalley	Summit.	

PIONEER STAKE.

William McLachlan, president of the stake.
Sylvester Q. Cannon, first counselor.
Charles H. Hyde, second counselor.
Hjalmer Carlquist, stake clerk.

Bishops.		Wards.
Salt Lake City:		
Harrison Sperry	Fourth Ward.	
Samuel M. T. Seddon	Fifth Ward.	
*James C. Watson	Sixth Ward.	
Charles Margetts	Seventh Ward.	
Carl A. Ek	Twenty-fifth Ward.	
Louis G. Hoagland	Twenty-sixth Ward.	
Heber S. Cutler	Thirtieth Ward.	
Robert Sherwood	Thirty-second Ward.	
*Frederick W. Schoenfield	Brighton.	
Lewis M. Cannon	Cannon.	
Hiram T. Spencer	Pleasant Green.	

POCATELLO STAKE.

William A. Hyde, president of the stake.
Noah S. Pond, first counselor.
Henry S. Woodland, second counselor.
L. C. Pond, stake clerk.

Bishops.		Wards.
George T. Hyde	Cambridge.	
Washington McClellan	Dempsey.	
Joseph E. Capell	Garden Creek.	
Joseph F. Hunt	Grant.	
Nathan S. Coffin	Marsh Center.	
Albert M. Boyce	McCammon.	
Wilford Bennion	Neeley.	
Milo A. Hendricks	Pocatello.	
Ephraim Ralphs	Rockland.	
William Henry Wakley	Woodland.	

SALT LAKE STAKE.

Nephi L. Morris, president of the stake.
*George R. Emery, first counselor.
Edward T. Ashton, second counselor.
John E. Cottam, stake clerk.

Bishops.		Wards.
*George H. Taylor	Fourteenth Ward.	
John W. Boud	Fifteenth Ward.	
Edwin F. Parry	Sixteenth Ward.	
Walter J. Beatie	Seventeenth Ward.	
Isaac Barton	Nineteenth Ward.	
Alfred Solomon	Twenty-second Ward.	
George R. Jones	Twenty-third Ward.	
William McMillan	Twenty-eighth Ward.	
Theodore McKean	Twenty-ninth Ward.	
*Albert W. Davis	Center Ward.	

SAN LUIS STAKE.

Albert R. Smith, president of the stake.
 Levi P. Helm, first counselor.
 Thomas A. Crowther, second counselor.
 Stephen A. Smith, stake clerk.

Bishops.	Wards.
* Christen Jensen	Eastdale.
* Samuel Jackson	Manassa.
Ephraim Coombs	Richfield.
William O. Crowther	Sanford.

SAN JUAN STAKE.

Walter C. Lyman, president of the stake.
 William Halls, first counselor.
 W. H. Redd, second counselor.
 Peter Allen, stake clerk.

Bishops.	Wards.
Jens Nielsen	Bouff.
Clayborn Brimhall	Burnham.
F. I. Jones	Montecello.
John P. Larson	Moab.
George Hallis	Mancos.
J. L. Tenney	Hammond.

SEVIER STAKE.

William H. Seegmiller, president of the stake.
 *Joseph S. Horne, first counselor.
 James Christiansen, second counselor.
 George M. Jones, stake clerk.

Bishops.	Wards.
Joseph W. Fairbanks	Annabella.
Christian Christensen	Aurora.
James S. Shaw	Brooklyn.
Leonard A. Hall	Burrville.
*Jens I. Jensen	Elsinore.
Herbert H. Bell	Glenwood.
Barnard H. Greenwood	Inverury.
Joseph F. Parker	Joseph.
Parley Anderson	Koosharem.
Heber Swindle	Monroe (South).
Joseph H. Jensen	Monroe (North).
Martin Jensen	Redmond.
Heber C. Christensen	Richfield (First).
Virginius Bean	Richfield (Second).
George W. Coons	Richfield (Third).
Carl A. Mattson	Salina.
John Dastrup	Sigurd.
John E. Gledhill	Vermillion.
Joseph W. Cowley	Venice.

SNOWFLAKE STAKE.

*Jesse N. Smith, president of the stake.
 Smith D. Rogers, first counselor.
 J. H. Richards, second counselor.
 Levi M. Savage, stake clerk.

Bishops.	Wards.
E. M. Thomas	Pinedale.
J. C. Owen	Showlow.
*John Hunt	Snowflake.
John Bushman	St. Joseph.
Zachariah B. Decker	Taylor.
*Levi M. Savage	Woodruff.

SOUTH SANPETE STAKE.

Louis Anderson, president of the stake.
Joseph Y. Jensen, first counselor.
Gustave A. Iverson, second counselor.
Niels R. Petersen, stake clerk.

Bishops.	Wards.
Andrew C. Fjeldsted	Centerfield.
John S. Beal	Ephraim (North).
Charles R. Dorius	Ephraim (South).
John Bartholomew	Fayette.
Joseph Christensen	Gunnison.
N. R. Petersen	Manti (North).
Louis C. Kjar	Manti (South).
Parley Christensen	Mayfield.
N. C. Christensen	Sterling.

STAR VALLEY STAKE.

George Osmond, president of the stake.
*William W. Burton, first counselor.
Anson V. Call, second counselor.
William H. Kennington, stake clerk.

Bishops.	Wards.
Osborne Low	Afton.
Heman Hyde	Auburn.
John B. Thatcher, jr.	Bedford.
Franklin G. Tolman	Fairview.
Aaron F. Bracken	Freedom.
James Jensen	Grover.
Andrew M. Nielsen	Osmond.
Frank R. Cranney	Smoot.
Isaiah Butterworth	Thayne.

ST. GEORGE STAKE.

Edward H. Snow, president of the stake.
Thomas P. Cottam, first counselor.
George F. Whitehead, second counselor.
David R. Forsha, stake clerk.

Bishops.	Wards.
James M. Ballard	Grafton.
Franklin O. Holt	Gunlock.
George A. Holt	Hebron.
Brigham Y. McMullin	Leeds.
Jeter Snow	Pine Valley.
Heber E. Harrison	Pinto.
N. R. Fawcett	Price.
John F. Langton	Rockville.
Isaac C. Macfarlane	St. George (East).
James McArthur	St. George (West).
*J. G. Hafen	Santa Clara.
Oliver D. Gifford	Springdale.
*William A. Bringham	Toquerville.
Leroy W. Beebe	Virgin.
Andrew Sprowl	Washington.
Edward M. Bunker, jr.	Bunkerville.
Orrin H. Snow	Lund.
William E. Abbott	Mesquite.
John M. Bunker	Overton.
Francis C. Lee	Panaca.
Hyrum S. Arnoldson	Preston.

ST. JOHN STAKE.

* David K. Udall, president of the stake.
 E. N. Freeman, first counselor.
 J. T. Lesuer, second counselor.
 Willard Farr, stake clerk.

Bishops.

Wards.

William I. Birk.....	Alpine.
Elam J. Cheney.....	Concho.
Joseph Udall.....	Eagar.
Ellis W. Whitbank.....	Greer.
Mancell H. Thompson, P. E.....	Luna.
Orson Wilkins.....	Nutriso.
C. P. Anderson.....	St. John.
S. E. Lewis.....	Rama.

ST. JOSEPH STAKE.

Andrew Kimball, president.
 W. D. Johnson, first counselor.
 C. M. Layton, second counselor.
 Horace Gardner, stake clerk.

Bishops.

Wards.

M. A. Stewart.....	Bisbee.
David H. Claridge.....	Bryce.
Alva S. Porter.....	Central.
G. W. Williams.....	Clifton Branch.
Alvin B. Kempton.....	Eden.
Thomas S. Nations.....	Franklin.
George Skinner.....	Graham.
John Hancock.....	Hubbard.
James R. Welker.....	Layton.
Joseph Brewer.....	Lebanon.
Lehi Larson.....	(Matthews.
	(Prima.
John S. Merrill.....	St. David.
William A. Moodey.....	Thatcher.

SUMMIT STAKE.

Moses W. Taylor, president of the stake.
 Thomas L. F. Allen, first counselor.
 George W. Young, second counselor.
 Edward H. Rhead, stake clerk.

Bishops.

Wards.

Peter Duncan.....	Beach Creek.
David Reese.....	Castle Rock.
Frank Croft.....	Coalville.
John F. Wilde.....	Coalville (East).
Joseph Hopkin.....	Echo.
Daniel Mitchell.....	Francis.
John E. Pettit.....	Grass Creek.
Micha F. Harris.....	Henefer.
William Sargent.....	Hoytsville.
Dan Lambert.....	Kamas.
William P. Richards.....	Oakley.
Frederick Rasband.....	Park City.
Angus J. Cannon.....	Parleys Park.
Arthur Maxwell.....	Peoa.
James Vernon.....	Rockport.
John S. Saxton.....	Upton.
Frank Hixson.....	Wanship.
Ephraim Lambert.....	Woodland.

TAYLOR STAKE.

H. S. Allen, president of the stake.
Theodore Brandley, first counselor.
Jesse W. Knight, second counselor.
George H. Budd, stake clerk.

Bishops.		Wards.
Levi Harker.....	Magrath.	
John F. Anderson	Raymond.	
F. D. Grant	Sterling.	

TETON STAKE.

Don C. Driggs, president of the stake.
John D. Kilpack, first counselor.
George S. Young, second counselor.
M. M. Norinan, clerk of the stake.

Bishops.		Wards.
Thomas Bates, P. E.....	Bates.	
Robert G. Meikle	Cache.	
Frank J. Stone.....	Cheney.	
Harold D. Winger	Davies.	
Stanley B. Fairbanks	Driggs.	
Willard G. Homer.....	Haden.	
George W. Hendrickson.....	Leigh.	
Hanum Curtis	Victor.	
F. W. Morgan	Pratt.	
Selar Cheney, P. E.....	South Park.	
Abraham Ward, P. E	Wilson.	

TOOELE STAKE.

* H. S. Gowans, president of the stake.
George F. Richards, first counselor.
Charles A. Orme, second counselor.
Thomas Williams, stake clerk.

Bishops.		Wards.
Charles A. Orme.....	Batesville.	
M. M. Stookey.....	Glover.	
Emil Feller.....	E T City.	
James L. Wrathall.....	Grantsville.	
J. G. Shields	Lakeview.	
George W. Bryan	Mercur.	
John A. Ahlstrom.....	St. Johns.	
Thomas Atkin	Tooele City.	
Israel Bennion.....	Vernon.	

UINTAH STAKE.

*S. R. Bennion, president of the stake.
R. S. Collett, first counselor.
James Hacking, second counselor.
H. W. Woolley, stake clerk.

Bishops.		Wards.
John A. Workman.....	Glines.	
George P. Billings	Jensen.	
Sterling D. Colton	Maeser.	
A. B. Searle	Mountain Dell.	
James M. Shaffer	Naples.	
John N. Davis.....	Vernal.	

UNION STAKE.

F. S. Bramwell, president of the stake.

*Charles W. Nibley, first counselor.

L. J. Jordan, second counselor.

Hyrum M. Monson, stake clerk.

Bishops.	Wards.
E. D. Salisbury	Alicel.
W. J. Wale	Baker.
W. J. Orchard	Bramwell Branch.
John A. Abbott	Cove.
David Nelson	Emmett.
Joseph H. Salisbury	Imbler.
George W. Rose	Indian Valley Branch.
George Stoddard	Le Grande.
E. D. Whiting	Mount Glen.
W. J. Rawson	Nibley.
Thomas Platt	Summerville.
James England	Union.
Hyrum Welch	Pine Grove.

UTAH STAKE.

*David John, president of the stake.

Joseph B. Keeler, first counselor.

Lafayette Holbrook, second counselor.

*J. W. Bean, stake clerk.

Bishops.	Wards.
David A. Mitchell	Clinton.
John Johnson	Lake View.
William T. Tew	Mapleton.
Alexander Gillispie	Pleasant View.
Ole H. Berg	Provo (First).
Lars L. Nelson	Provo (Second).
Thomas N. Taylor	Provo (Third).
Ernest D. Partridge	Provo (Fourth).
Moroni Snow	Provo (Fifth).
Ralph Poulton	Provo (Sixth).
O. B. Huntington, jr	Springville (First).
John F. Bringham	Springville (Second).
*George R. Hill	Springville (Third).
Joseph S. Lloyd	Springville (Fourth).
Otis L. Terry	Timpanogos.
George M. Smoot	Vineyard.
Benjamin F. Smith, P. E.	Thistle.
T. J. Parmley	Pleasant Valley.
George Ruff	Scofield.

WASATCH STAKE.

William H. Smart, president of the stake.

J. R. Murdock, first counselor.

James C. Jensen, second counselor.

Joseph W. Musser, stake clerk.

Bishops.	Wards.
Hugh W. Hardy	Center.
William Daybell	Charleston.
P. H. McGuire	Daniels.
Henry Cluff	Elk Horn.
Robert Duke	Heber (First).
Joseph A. Rasband	Heber (Second).
Frederick Cook	Heber (Third).
Joseph W. Francom	Midway (First).
Jacob Probst	Midway (Second).
George P. Garff	Wallsburg.

WAYNE STAKE.

Willis E. Robison, president of the stake.
George S. Bastian, first counselor.
Joseph Eckersley, second counselor and clerk.

Bishops.		Wards.
Walter E. Hanks	.....	Caineville.
Hiett E. Maxfield	.....	Fewmont.
Levi C. White	.....	Giles.
W. H. Morrell	.....	Loa.
Joshua H. Cook	.....	Lyman.
Heber J. Wilson	.....	Teasdale.
George W. Stringham	.....	Thurber.
John R. Stewart	.....	Torrey.

WEBER STAKE.

Lewis W. Shurtliff, president of the stake.
*Charles F. Middleton, first counselor.
*N. C. Flygare, second counselor.
John V. Bluth, stake clerk.

Bishops.		Wards.
H. J. Fuller	.....	Eden.
James Martin	.....	Far West.
Levi J. Taylor	.....	Harrisville.
William W. Child	.....	Hooper.
David McKay	.....	Huntsville.
Peter B. Peterson	.....	Kanesville.
J. B. Judkins	.....	Liberty.
George Smuin	.....	Lynn.
Moroni S. Marriott	.....	Mariott.
James Taylor	.....	Mound Fort.
James Ward	.....	North Ogden.
D. H. Ensign	.....	Ogden (First).
Robert McQuarrie	.....	Ogden (Second).
James Wotherspoon	.....	Ogden (Third).
Edwin T. Wolley	.....	Ogden (Fourth).
John Watson	.....	Ogden (Fifth).
G. W. Bramwell	.....	Plain City.
C. A. Hickenlooper	.....	Pleasant View.
A. A. Bingham	.....	Riverdale.
Thomas Hollands	.....	Roy.
James A. Slater	.....	Slaterville.
Alma Keys	.....	Uintah.
William L. Stewart	.....	Warren.
Robert McFarland	.....	West Weber.
John Rackham	.....	Wilson.

WOODRUFF STAKE.

John M. Baxter, president of the stake.
Archibald McKinnon, first counselor.
Charles Kingston, second counselor.
T. J. Tingey, stake clerk.

Bishops.		Wards.
John Kennedy	.....	Arbyle.
Willis Twitchell, P. E.	.....	Manila Branch.
John C. Gray	.....	Randolph.
Peter McKinnon	.....	Woodruff.
Joseph Soulsby	.....	Rock Springs.
William Beveridge, P. E.	.....	Almy Branch.
James Brown	.....	Evanston.
Samuel R. Brough	.....	Lyman.
Andrew Easton	.....	Diamondville.
Joseph E. Bell, P. E.	.....	Hilliard Branch.
Hans S. Jensen, P. E.	.....	Bridger Butte Branch.
William Bell	.....	Cumberland.
David McMillan	.....	Kemmerer.
Henry T. Williams	.....	Spring Valley.
James Graham, P. E.	.....	Mountain View.

The CHAIRMAN. What next?

Mr. WORTHINGTON. Doctor, there is some testimony in this case about the repute as to what Heber J. Grant said on a certain occasion with reference to his having two wives, and if I remember correctly, that he wished he had another, or something to that effect. You have read the evidence on that subject, have you?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. Can you give us any information as to the repute in the institution where that is said to have occurred about that transaction?

Senator McCOMAS. Is this a young ladies' seminary?

Mr. VAN COTT. No; it was at chapel exercises at the University of Utah.

The CHAIRMAN. In some exercises in the University of Utah he made a speech in which he said that he contributed so much, I think \$150, \$50 for each of his wives.

Mr. WORTHINGTON. He is reputed to have said that, but we have had no testimony from anybody who heard it. It was also stated that he was reputed to have said he only regretted that he had not another wife, so that he could give another \$50. I am asking the Doctor if he knows anything about the repute in the institution where that is said to have occurred in regard to it.

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. How did you get your information as to the reputation?

Mr. TALMAGE. I was not present at the chapel exercises referred to. The exercises are somewhat misnamed. They are known among the students as their assembly gathering or assembly exercises. They are not intended to be religious exercises wholly, and sometimes not at all religious. On the occasion referred to, though, I was in the building. I was not in the room, not knowing that Mr. Grant was going to speak. I am informed he was there by invitation, as many men have appeared in turn by invitation, and was referring to the action taken by the alumni association of the university in establishing an alumni scholarship fund, and expressed his regret that there had not been a more prompt and more liberal response, and that the remarks referred to by counsel were then made. I made inquiry, having heard casually of what had been said, and I know the impression made upon the president of the university, who at the time was presiding over the assembly, and upon several of the professors and upon a great many of the students, but I was not present myself.

Mr. WORTHINGTON. Nobody has testified about who was present, so I will ask you what the reputation is in the institution where the thing is said to have happened?

Mr. TALMAGE. The president of the university informed me, soon after the occurrence, that the event, in his judgment, was insignificant in a way, and that most assuredly Mr. Grant had not intended to there announce or affirm his belief in polygamy in the sense of trying to induce others to adopt that belief.

The CHAIRMAN. This is what the president told you? You did not hear it?

Mr. TALMAGE. I repeat, sir, I was not present, and this is the statement made to me by the president very soon after the occurrence, and *repeated* to me a few days before I left on my journey hither.

Senator McCOMAS. You were not present and did not hear it, and you are now undertaking to give, from hearsay, a statement of the president as to what his impression was of what Mr. Grant thought or intended?

Mr. TALMAGE. Precisely so, as that is what counsel asked for.

Mr. WORTHINGTON. This was stated by persons who were not present, Senator.

Senator McCOMAS. What the president stated as to what this man intended to say, it seems to me, is not of any value to us.

Mr. WORTHINGTON. What I am trying to get is the effect it made upon those who heard this statement, as to whether it was a serious statement or simply a jest.

Senator McCOMAS. A jocular remark?

Mr. WORTHINGTON. A jocular remark. The Doctor has talked with the faculty and a great many of the students who heard this, I understand.

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. I do not care about your going into the details of conversations you had with any particular person, but from information obtained in this way, what do you say as to what the understanding there was, that it was said in jest or seriously?

Mr. TALMAGE. I have found no one, either a member of the faculty or a student, who was present and who regarded the incident in any other way than as a jest. Many of them made the remark that it was ill-timed humor, and I have not found any of them who commends the remark; but they are all unanimous—those with whom I have spoken, and I have spoken with many—in saying that the remark appeared to be called forth and suggested by the occasion. Mr. Grant had made the remarks to which I refer and expressed regret that more members of the association had not responded liberally. He said that he had paid \$50 in for each of three—"Myself"—

The CHAIRMAN. Three what?

Mr. TALMAGE. Three members of the alumni association.

Mr. WORTHINGTON. He is going on to state it, Mr. Chairman.

Mr. TALMAGE. "Myself," said he, "and each of my two wives." Thereupon there was an incipient cheer on the part of some, a slight clapping, and some little laughter, as the president and others have described to me, and the speaker appeared to be embarrassed, and added, "Yes, I have two wives," and then made some remark that he regretted he had not another—the precise words I know not—perhaps to serve as an excuse, as the chairman has very properly suggested, for giving another \$50.

Senator McCOMAS. It was not a joke that he had two wives?

Mr. TALMAGE. That is no joke; that is a fact. And, having admitted that, or said so much, he very frankly followed it by the remark that seems to have caused some misunderstanding. Anyone who knows Mr. Grant will know very well that he is very frank in his remarks and that he intended nothing more than what was said.

Mr. WORTHINGTON. Was there not a limitation there, that each person was limited to \$50 for each individual?

Mr. TALMAGE. I so understand; and many had paid much less than that, and he paid the full \$50 for himself and the two ladies who were members of the association before they were his wives, and he regretted that he had not an excuse for paying more in the same way.

Mr. WORTHINGTON. Which meant that he regretted he could not contribute more to the institution. That is what he meant?

Mr. TALMAGE. Perhaps so. He said he regretted he had not another wife, and I believe it.

Senator OVERMAN. That he had not married another member of the alumni association? [Laughter.]

Mr. TALMAGE. Yes. I would desire to add, since I have been permitted to give the results of my inquiry, that I asked the president, who is ex officio a member of the board of regents, and other members, how they regarded it, and was told—

The CHAIRMAN. Mr. Worthington, do you want the witness to give the conversation he had with all the people he talked to?

Mr. WORTHINGTON. My idea about it is that all the testimony on this subject ought not to have been received, and that it is utterly unworthy of any consideration whatever; but if it is competent for witnesses to take the stand and tell what they hear about a general sort of rumor about what took place there, why is it not competent to have what was said stated by those who were there? It is much better evidence to have what those who were present said than what people on the street say, it seems to me.

The CHAIRMAN. If we let the witness go on and detail all the conversations he has had with every person at the school it will take us the balance of the week.

Mr. WORTHINGTON. No; I do not ask that. I would like the witness to be allowed to finish this particular statement that he was about to make.

The CHAIRMAN. Very well; witness, proceed and make it as brief as you can and as rapidly as you can.

Mr. TALMAGE. I had already stated, I believe, that I had spoken with members of the board of regents and made inquiry as to whether the matter had been considered by them, and I am told that the members of the board of regents, who were in no way connected with the Mormon Church, regarded it in the light I have described, and were quite willing to accept the money. The feeling was openly expressed that if there was anything improper about it, that money ought not to be accepted. It has not only been accepted, but students are very eager to get the benefit from it.

Mr. WORTHINGTON. This is not a Mormon institution, then, solely?

Mr. TALMAGE. Not at all, sir. It is the State University.

Mr. WORTHINGTON. The president, to whom you spoke, was a Gentile?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. And some of the members of the faculty?

Mr. TALMAGE. Yes, sir; many of them.

Mr. WORTHINGTON. And many of the professors and students?

Mr. TALMAGE. Yes, sir.

Mr. WORTHINGTON. That is all.

Senator McCOMAS. What use did you propose to make of all this inquiry from so many people about a remark which you thought was merely a jocular remark?

Mr. TALMAGE. For the simple reason that an inflammatory sheet published in Salt Lake City did not so regard it and tried to make out there was something serious about it. I inquired of a number of the faculty who are members of the Mormon Church and they had little

to say, any more than that they were sorry that the remark had been made, because so much was being made out of it, and that it was not worthy of the attention given it. Then I inquired of a number of the non-Mormon members of the faculty and of very many of the students, and of members of the board of regents, some of whom were present.

Senator McCOMAS. How many members of the faculty were there?

Mr. TALMAGE. Present?

Senator McCOMAS. No; altogether, in the faculty.

Mr. TALMAGE. Of professors and instructors, above 30.

Senator McCOMAS. About how many of them were Mormons?

Mr. TALMAGE. I could not tell you without reckoning up, but—

Senator McCOMAS. Half?

Mr. TALMAGE. No; less than half.

Senator McCOMAS. Two-thirds?

Mr. TALMAGE. Less than half, Senator.

Senator McCOMAS. That is all.

Mr. TAYLER. Doctor, you said something about the matter of teaching the propriety of polygamy since the manifesto. You were asked some questions about that, were you not?

Mr. TALMAGE. On this occasion—do you mean just now, sir?

Mr. TAYLER. Since you went on the stand; not now.

Mr. TALMAGE. In my former examination?

Mr. TAYLER. Yes.

Mr. TALMAGE. I do not remember the details, but probably so.

Mr. TAYLER. You know the Improvement Era?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. That is published by the church, is it not?

Mr. TALMAGE. No; that is published by the general board of the Young Men's Improvement Association; a church organization, however.

Mr. TAYLER. It is the organization of Young Men's Mutual Improvement associations?

Mr. TALMAGE. It is the organ of the Young Men's Mutual Improvement Association.

Mr. TAYLER. And it is published by the general board?

Mr. TALMAGE. Yes, sir.

Mr. TAYLER. Joseph F. Smith is an editor?

Mr. TALMAGE. He is the ex-officio editor in chief; yes.

Mr. WORTHINGTON. Were you asked all about this when you were on the stand before?

Mr. TALMAGE. Part of it; yes, sir.

Mr. TAYLER. No; not this. Is Brigham H. Roberts an editor?

Mr. TALMAGE. No, sir.

Mr. TAYLER. He was an editor of it once, was he not?

Mr. TALMAGE. He was while he was occupying some other position in connection with the board. I forget what.

Mr. TAYLER. And Heber J. Grant was a business manager also?

Mr. TALMAGE. He was.

Mr. TAYLER. What I want to get in the record here—I was waiting to get somebody on the stand—is this Reiner correspondence. You recall that, do you not?

Mr. TALMAGE. What was that?

Mr. TAYLER. The Reiner correspondence. It is called the "Reiner correspondence."

Mr. TALMAGE. Yes; I remember something about the discussion.

Mr. TAYLER. The letter of Doctor Reiner and the reply to it—"Comment on Doctor Reiner's letter, by Elder Brigham H. Roberts"—which were printed in the Improvement Era for May, 1898. You recall the letter of Brigham H. Roberts, do you not?

Mr. TALMAGE. I recall the fact that there was a discussion through the columns of that paper; yes, sir.

Mr. TAYLER. And that the letter of Brigham Roberts was a defense of polygamy—not of the practice of polygamy as proper at that time; but I mean as to the wisdom of polygamy and the divinity of its origin, and so on?

Mr. TALMAGE. Yes; that is my remembrance of the nature of the discussion called forth, as I personally know by requests made by Reiner when he was visiting Salt Lake that such a discussion should be opened.

Mr. TAYLER. I will ask that all of this go in, because then it will explain itself. It shows how it came to be published.

Mr. WORTHINGTON. Will you let us look at it before it goes in?

Mr. TAYLER. Yes. It has been referred to.

The matter referred to is as follows:

[Improvement Era. May, 1898. Vol. I. No. 7.]

Dr. John M. Reiner on Mormonism.

A great many people in Utah will remember the visit of Dr. John M. Reiner to Salt Lake City some time in January last. While visiting friends in the State the Doctor's attention was attracted by the boldness of the claims of Mormonism, and he prolonged his visit somewhat over the time he had intended to stay, in order that he might investigate the doctrines of the, to him, strange faith of the saints. He was successful in obtaining interviews with a number of the general authorities of the church and other leading brethren, and paid some attention, we believe, to the literature of the subject. During his stay among us he was accorded the privilege of addressing the saints in the tabernacle at one of the regular Sunday afternoon services in Salt Lake City. His remarks on that occasion were published in the Deseret Evening News, and it is for this reason that we say his visit here will be remembered by very many of the people of Utah. Since his return to the East the Doctor seems not to have lost his interest in the subject he investigated while in Utah. Indeed, he not only seems to have retained his own interest in the subject, but to have aroused in others an interest in the same great theme, as will appear from the following communication addressed to one of the editors of the Era under date of March 16:

"MY DEAR SIR: A number of gentlemen in New York were recently addressed by Dr. John M. Reiner on "Mormonism," and this has brought forth considerable discussion and many questions on our part. In answer to some of these questions the Doctor has sent to me the inclosed letter, and he makes such extraordinary statements and startling explanations that we are interested to know how near he comes to your view of the matter, and whether you advocate what he says.

"If you know the Doctor you know that he is to the point, positive, and is prepared with proofs to substantiate any assertions he may make. We should like, if you see no objection, to have you print his

letter to us, and comment on the same from a 'Mormon' standpoint, so that we may have the 'Mormon' answer to the questions, which you see from his answer were asked the Doctor. * * * Of course, you understand that my permission to publish this article is not to be construed as advocating the statements therein made, or that I think the same unanswerable. We have not at present gone beyond the letter, nor do we intend to until we get your views on the subject; we simply say, 'Here is what the Doctor says, what have you got to say?'

"The Doctor's personal letter to me, and which I inclose, must serve for the present as my introduction to you. I should be pleased to hear from you.

"Yours, very truly,

"_____.

"P. S.—Inasmuch as we meet weekly for discussion of this and other subjects, and expect letters from the Doctor in answer to our inquiries, will you publish these on the same conditions as the inclosed, should we send the same to you?"

In answering the above, the editor of the *Era*, to whom it was addressed, placed himself at the service of the gentlemen to aid them in their investigation of the faith of the Latter-Day Saints, and promised to publish the letters of Doctor Reiner to them, with such comments as the statements of the Doctor might seem to demand or warrant.

DOCTOR REINER'S LETTER.

ELIZABETH, N. J., *March 12, 1898.*

GENTLEMEN AND FRIENDS: I have read with pleasure your letter informing me of your resolution "to examine more thoroughly the claims of the sect known as Mormons." Such an undertaking, in this age of religious indifference, is indeed a laudable one. If you will kindly bear in mind that you are dealing with a young and undeveloped organization, reared in prosaic surroundings and under difficult circumstances, and if you will use hermeneutical judgment upon the lines I have indicated you can not fail to derive some benefit and pleasure from such an investigation.

Under the present circumstances, when other and more pressing matters demand my immediate attention, I am unable to make new engagements, and hence must decline your invitation with thanks, to meet you twice a week for the purpose indicated, but I shall most cheerfully correspond with you and answer such questions as you may submit to me from time to time. I, however, beg you to regard my utterances as my own, as I have no authority to speak in any capacity for the Mormon Church. Personally I do not doubt for a minute that my exegesis is the correct one, and the only one that will make Mormonism appear in its proper light when brought under review by a gentleman of your capacity and learning.

And now to the main points. The sincerity of the Mormons does not seem to me to be the proper subject for discussion; it certainly is not scientific. I, however, take this opportunity to declare that it is my honest conviction, based upon a close observation, that the leaders of the people belonging to that communion are certainly sincere and God-fearing men.

The subject of polygamy should, in my judgment, be left out of your investigation. In a manifesto dated the 24th day of September, 1890, President Woodruff solemnly declared that he stood ready to abide by the laws of the land, and prohibited the priesthood of the church, of which he is the head, to solemnize any more plural marriages after the date of that manifesto. That declaration, I think, should be sufficient to make us hold our peace even here in the East. Inasmuch as you press that subject upon me, I shall make the following remarks upon it:

Your question as to whether polygamy can be justified "from a biblical standpoint" lacks precision. "From a biblical standpoint" according to whose interpretation? Those of you gentlemen who are members of the Church of Rome can discard this question by saying, "Roma locuta, causa finita est." And those belonging to any other denomination have no infallable rule in such matters, and hence are not in the position to successfully combat the doctrine of polygamy from a biblical standpoint.

Have you ever attempted to answer to yourselves satisfactorily the question, why the world has endured the open, shameless, and most wicked advocacy of polygamy by the reformers of the sixteenth century, while we are ready to pour out our wrath upon the Mormon Church for the same reason? The latter has advocated that principle openly and manfully, and readily underwent the most bitter persecution for it. In comparison to the utterances and acts of the reformers, the Mormons indeed deserve to be called saints.

The teachings of Luther in relation to chastity were so startling and shocking, even to his contemporaries, that his own bosom friend declares that in the whole of Christendom no one has ever dealt with such sacred and serious things in such a profane and beastly manner as did the great reformer. The life and letters and poems of Beza are of such a nature that no sensitive Christian mind can peruse them without feeling the atmosphere of a pest hospital. No such accusations can truthfully be charged against the Mormons even by their worst enemies.

In the year 1523 Luther writes to the German nobility in relation to celibacy as follows:

"Again I say if it should happen that one, two, hundred, thousand or more councils should decree, that the clergy may marry. * * * then I would rather trust to the grace of God for him who would keep one, two, three pro—— and overlook it, than that he should marry according and in obedience to the decree of the council."

What do you, gentlemen, think would have happened if Joseph Smith, Brigham Young, and their successors would have dared to promulgate such doctrines? For much less than that they had their houses burned and their property taken away, and their families exposed to starvation and danger in midwinter.

Luther's high conception of matrimony is thus expressed by him:

"The husband may drive away his spouse, God cares not. * * * let Vashti go and take an Esther, as did the King of Ahasuerus."

In a letter written by Luther to Spalatin, whom he encourages to enter the matrimonial heaven, he writes:

"I do not wish that you should be surprised that I, who am reputed to be such a lover, am as yet unmarried. However, if you look for an example, behold, here is a good one for you: For three wives at one

time did I have, all of whom I loved intensely, and lost two of them. The third one, which I now hold in my left arm, may also be snatched away from me at any time."

Carlstadt, Luther's disciple, also advocated the practice of polygamy. Upon hearing of it, Luther wrote to Chancellor Bruecks:

"I, indeed, must confess that I can not forbid when one takes many wives, for it does not contradict the scriptures."

There, gentlemen, is your "biblical standpoint." Beza, another of the "instruments of God," writes:

"Evidently God has so created and molded certain men that polygamy for them is either advisable or, to avoid sin, absolutely necessary."

History, indeed, tells us of many who, under the teachings of the reformers, came to the conclusion that they were so "molded" as to make the practice of polygamy for them imperative. Such individuals were not men in ordinary walks of life, but rulers and noblemen who adopted Luther's new gospel, and were sufficiently influential with Luther and Melancthon to receive their approval. One of these noblemen was the Landgraf Philip Von Hessen. This disciple of the new faith declared to Luther and his coadjutor, Melancthon, that in order to avoid sin he must have another wife. It goes without saying that he received the desired "dispensation" from Luther to marry another wife in the lifetime of his first wife, under the condition that he keep it a secret, not because it was against the law of God, but for fear that the common people might follow his example.

Hear what Luther says himself on that subject:

"It was to us painful enough at the time, but inasmuch as we could not prevent it we wished to spare the conscience as much as possible. I understood and hoped that he [the Landgraf] would secretly take some honest lass and would sustain secret marital relations with her in some quiet home."

To Philip himself he writes:

"In matters of matrimony the laws of Moses are not revoked or contradicted by the gospel."

In his Table Talks he declares "that secret polygamy of princes and noblemen is legal before God, and is not unlike the relation of the patriarchs to their concubines."

The secret second marriage of Philip Von Hassen soon became public rumor and was a source of annoyance to the reformers. Luther was bold as usual, and advised "that the best is to deny the whole fact and not to touch upon the legal aspect of the question at all," for he well knew that polygamy at that time was a capital crime. But Duke Henry of Braunschweig was not satisfied with a mere denial, and he soon published a pamphlet exposing the whole scandal. In it the Duke desired to know upon what right—civil or divine—or upon what scriptural utterances the Landgraf was permitted to be the husband of two wives. Some of his court theologians published a reply which is worthy a place here, and will interest you in your investigations.

They first attempt to treat the whole thing as a mere idle rumor without foundation, but they say, "Supposing such polygamous marriage was really and publicly solemnized, and supposing that the Landgraf of Hessen intended to sanction polygamy generally by the enactment of a new law in favor of it, even then it will help decrease the evil of fornication and adultery * * * which exists in the land and is habitual among the Germans. Relative to your question,

by what right or custom or by what utterance of Holy Scriptures can Landgraf excuse his double marriage, it is found in the fifth book of Moses, and in the twenty-first chapter, where it is provided how a husband of many wives should act toward the children of all of them in relation to property. Likewise you have the example of holy men, for were not Abraham, David, Joas, and many others holy before their God? It was therefore not wise for you to quote the Old Testament. But if you speak of the New Testament, we would remind you of the saying of St. Paul that a bishop should be the husband of but one wife, and will ask you if at the time of the apostles it was not customary to have concubines, why then does the apostle forbid the bishop having more than one wife?"

I can not forbear saying now and here that the quotation from St. Paul above mentioned is a malicious mistranslation, as you may satisfy yourself by an examination of the Greek texts.

Now, gentlemen, in the light of the historical facts herein stated I beg to remind you that in 1883 the whole of Protestant Christendom celebrated the four hundredth anniversary of the birth of Luther, and a scheme was well under way to erect a monument to his memory in the city of Washington like the one in the city of Worms. On the other hand, we are all of us ready to march upon the wicked city of Salt Lake and to exterminate the godless Mormons on account of polygamy. I say again that in comparison with the lecherous libertines of the sixteenth century Brigham Young and his followers deserve indeed to be called saints.

As to the other "most crudely and unlearnedly stated dogmas of the Mormons" which you mention in your letter, I must beg leave to reply at a more convenient time. It is long past midnight and I still dwell in the tabernacle of the flesh.

With due regard and good wishes to your undertaking, I am, gentlemen and friends,

Yours, very sincerely,

JOHN M. REINER.

COMMENT ON DOCTOR REINER'S LETTER BY ELDER B. H. ROBERTS.

[The letter of Elder Roberts is addressed to the same company of gentlemen who had received Doctor Reiner's letter.]

GENTLEMEN: Since in Doctor Reiner's statement the subject of polygamy could have been left out of your investigations concerning Mormonism, owing to the manifesto issued by President Woodruff in 1890, which discontinued plural marriages in the church, I almost regret that he did not with that remark pass the subject and proceed to the consideration of one more fundamental to what the world calls "Mormonism." I suppose, however, that in view of your question, he felt himself bound to say something on plural marriage; and as in any extended discussion of Mormonism something sooner or later must be said on that subject, as well say it now as at any other stage of the investigation.

The Doctor does not answer your question as to whether polygamy can be justified "from a biblical standpoint." He relies upon the authoritative decision of the Church of Rome to settle the matter for those of you who are Roman Catholics; while those of you who are Protestants he treats to a dissertation on the views of some of the sixteenth century "reformers" on the subject. And when I remember the Doctor's severity, not to say bitterness, against the Protestants,

I can not help but think that unconsciously he has taken a thrust at them over the shoulders of the Latter-Day Saints. But however interesting all that may be, or however learned, it neither answers your question, nor does it represent the views of the Church of Jesus Christ of Latter-Day Saints on the subject. So much by way of criticism on the Doctor's method of treating the subject; all of which, however, is intended in the kindest spirit, as I entertain a very high respect for the Doctor's learning, and also honor him for his evident intention to speak fairly of a people who have suffered much at the hands of those who have often pretended to investigate their faith.

Before proceeding to the question as to whether a plurality of wives can be justified "from a biblical standpoint" or not, allow me to say that the Latter-Day Saints never practiced plural marriage because they thought polygamy was justifiable from a biblical standpoint, or because Martin Luther and other sixteenth century "reformers" thought polygamy under some circumstances justifiable. Prophet Joseph Smith inquired of the Lord why it was that he justified his servants Abraham, Jacob, Moses, David, and others in the matter of their having many wives and concubines. In answer to that inquiry the Lord gave to him a revelation on the subject of marriage, revealing the doctrine of the eternity of the marriage covenant—that is, he made known to his servant the possibility of entering into the marriage covenant not only "until death" ends the contract, but for time and for all eternity, so that those entering into the holy state of matrimony under this law of God, with the engagement sealed and ratified by the authority of the holy priesthood which has the power to "bind on earth and in heaven, to loose on earth and in heaven," might have claims upon each other in and after the resurrection, and that relationship which has contributed so much to their happiness and refinement here in this life might continue throughout the countless ages of eternity to minister to their exaltation and glory.

Relative to the servants of God in ancient times being justified in having a plurality of wives, he was informed that it was because they had received them by commandment from God, and in nothing had they sinned except wherein they had acted outside the commandments of the Lord. "God commanded Abraham," says the revelation, "and Sarah gave Hagar to Abraham to wife. And why did she do it? Because this was the law, and from Hagar sprang many people. This, therefore, was fulfilling, among other things, the promises. Was Abraham, therefore, under condemnation? Verily I say unto you, nay; for I the Lord commanded it. * * * David also received many wives and concubines, as also Solomon and Moses my servants; as also many others of my servants, from the beginning of the creation until this time, and in nothing did they sin, save those things which they received not of me." Subsequently Joseph Smith received a commandment from the Lord to introduce that order of marriage into the church, and on the strength of that revelation, and not by reason of anything that is written in the old Jewish scriptures, the Latter-Day Saints practiced plural marriage.

But the question, "Is polygamy justifiable from a biblical standpoint?" still remains. The answer is, no; not in the sense that what is written of Abraham, Jacob, Moses, and others now authorizes anyone to take a plurality of wives without further commandment and authority from God to do so. But if the question be changed

somewhat, and made to read: "Does what is written in the Bible concerning Abraham, Jacob, David, and other men of God having a plurality of wives justify us in believing that God approved that form of marriage, and that it is therefore righteous?"—then the answer is, yes; most emphatically it does. And the fact that it does very much strengthened the faith of the Latter-Day Saints in the revelation that Joseph Smith announced to the church on that subject. For example, they read of faithful Abraham taking Hagar, the handmaid of his wife, Sarah, to wife; and when trouble arose in the family and Hagar departed from her husband's household, an angel of the Lord met her and commanded her to return. Which, if plural marriage were sinful, the angel would not have done, but would rather have encouraged her in her flight from that which was evil.

Nowhere do we find the Lord reproving Abraham for taking Hagar to wife; on the contrary, when the Lord appeared to him some time after the birth of Ishmael, he promised him a son by his wife Sarah, through whom all the seed of Abraham was to be blessed. And when Abraham prayed for the welfare of Ishmael the Lord promised to bless him also, saying: "And as for Ishmael, I have heard thee; behold, I have blessed him, and will make him fruitful, and will multiply him exceedingly; twelve princes shall he beget, and I will make him a great nation." Subsequently, when about to destroy Sodom and Gomorrah, the Lord again visits Abraham, renews the promise that Sarah shall yet have a son, calls Abraham his friend, and reveals unto him his intentions of destroying the cities of the plain; and then Abraham successfully pleads for the righteous within the cities. In all this there appears no displeasure toward Abraham for marrying more wives than one.

The history of Jacob furnishes still more striking proofs of God's approval of plural marriage. The story of his marrying the two daughters of Laban, Leah and Rachel, is too well known to need repeating. But when Rachel realized her barrenness she gave her handmaid, Bilhah, to be her husband's wife, and she bore Jacob a son. "And Rachel said, 'God hath judged me, and hath heard my voice, and hath given me a son.'" Then, when Leah saw that she had left off bearing children she took Zilpah, her maid, and gave her to Jacob to wife, and the sacred writer adds, "And God hearkened unto Leah, and she conceived and bare unto Jacob a fifth son. And Leah said, 'God hath given me my hire, because I have given my maiden to my husband.'"

Again: "And God remembered Rachel, and God hearkened unto her, and opened her womb, and she conceived and bare a son, and said 'God hath taken away my reproach.'" If plurality of wives were wrong in the sight of God would He bless in so remarkable a manner those who practiced it? Would He hear the prayers of those polygamous wives and answer them with blessings—take away the reproach of the barren Rachel, the second wife of Jacob, and make her fruitful, and give more children unto Leah as her "hire" for giving her husband another wife when he already had three?

If a plurality of wives, I mean, of course, as practiced by Abraham, Jacob, and the prophets, is a sin at all it must be adultery. It can be classed as no other. Paul says:

"Now the works of the flesh are manifest, which are these: *Adultery, fornication, uncleanness, * * ** and such like, of the which I

tell you before, as I have also told you in times past, that they which do such things shall not inherit the kingdom of God."

The adulterer, then, can not inherit the kingdom of God, but we find the following coming from the lips of Jesus concerning Abraham, Jacob, and the prophets: "There shall be weeping and gnashing of teeth when ye shall see Abraham, Isaac, and Jacob and all the prophets in the kingdom of God and you yourselves thrust out." Again: "And I say unto you that many shall come from the East and the West and shall sit down with Abraham, Isaac, and Jacob in the kingdom of heaven." We are driven to the conclusion by this testimony that polygamy is not adultery, for were it so considered then Abraham, Jacob, and the prophets who practiced it would not be allowed an inheritance in the kingdom of heaven; and if polygamy is not adultery, then it can not be classed as a sin at all.

David, the king of Israel, and a "man whose heart," we are informed, "was perfect before the Lord," had a plurality of wives. His first wife was the daughter of Saul, but while fleeing as a fugitive before the king of Israel he married Abigail, the widow of Nabal, and also Ahinoam, of Jezreel, "and they were both of them his wives." Yet, notwithstanding, David practiced a principle which the Christians of to-day denounce as evil. We are taught by the Scripture that "David did that which was right in the eyes of the Lord, and turned not aside from anything that he commanded him all the days of his life, save only in the matter of Uriah, the Hittite." If David did that which was right in the eyes of the Lord all the days of his life, except in the matter of Uriah's wife, he must have done that which was right in the eyes of the Lord when he took Abigail and Ahinoam to be his wives; hence a plurality of wives, as David practiced it, must be right in the sight of God. David's great sin in the case of Uriah's wife also throws some light on the subject in hand. The circumstance is well known. David committed adultery with Bathsheba, the wife of Uriah, and then had her husband placed in the front of the battle, where he was murdered. For this crime the Lord sent Nathan, the prophet, to reprove David. In the course of that reproof Nathan said:

"Thus saith the Lord God of Israel, I anointed thee king over Israel, and I delivered thee out of the hand of Saul, and I gave unto thee thy master's house, and thy master's wives into thy bosom, and gave thee the house of Israel and of Judah; and if that had been too little, I would moreover have given unto thee such and such things."

From this we learn that the Lord not only gave David the kingdom of Israel and Judah, but also delivered him out of the hands of Saul, and gave unto him his master's wives into his bosom, and intimates that if this was not enough he would have given unto him more wives. If polygamy were sinful, was it not wrong for the Lord to give unto David the widows of Saul into his bosom when he already had several wives? If for a man to have a plurality of wives is sinful, then in this instance, at least, the Lord was a party to the wrong. And the Christians of to-day who, in the face of the truth just pointed out, will still insist on the sinfulness of polygamy virtually accuse God of being a party to the evil.

The child, which was the fruit of David's adulterous connection with Bathsheba, was smitten by the Lord with death, and all David's fasting and praying was of no avail to save it. After the same woman became the polygamous wife of David she bore unto him another son—they

called his name Solomon, "and the Lord loved him." When King David waxed old and usurpers were laying their plans to secure the throne of Israel to themselves, instead of Nathan, the prophet, coming with a severe reproof from the Lord, we find him uniting with Zadock, the priest, in an effort to place this polygamous child, Solomon, on the throne of his father David, and they were successful, Solomon became king.

The Lord appears to sanction his appointment also, for no sooner is Solomon made king than the Lord appears to him and promises to grant whatever he might desire; and when Solomon prayed for wisdom the Lord promised to bestow it upon him in rich abundance, together with long life, honor, and great riches. Solomon was also chosen to build a temple to the Lord. And when it was dedicated the glory of God filled the house in attestation of divine acceptance. The Lord also appeared unto Solomon and gave him an assurance that the temple was accepted.

What a contrast between the child begotten in adultery and the one born in polygamy! The one is smitten of the Lord with death in his infancy, the other is "loved of the Lord," exalted to the throne of his father David, chosen to build a temple to God, who gives most positive and public proofs of his acceptance of it and also reveals himself unto him, warning and encouraging him. Surely in all this the Lord God has stamped adultery with unmistakable marks of his displeasure, while, on the other hand, he has set his seal of approval on polygamy.

Neither is the case of Solomon the only instance where God acknowledges and blesses the children born in polygamy. When Jacob, just previous to his death, blessed his children, he bestowed as great blessings upon the children of his polygamous wives as upon the children of Leah, nay, the blessing of Joseph, the son of Rachel, is greater than that pronounced upon any one of the rest. Moreover, when Reuben, Jacob's eldest son, by transgression lost his birthright, instead of the birthright falling to Simeon, the next oldest son, we are informed that it was given unto the sons of Joseph.

We learn from the description given of the New Jerusalem that there will be twelve gates in the wall surrounding the holy city, and on these gates will be written the names of the twelve sons of Jacob, born of his four wives. We have already quoted the words of Jesus, showing that polygamous Abraham, Jacob, and the prophets will be in the kingdom of God, and will doubtless have their abode in this New Jerusalem, so that it appears that if our modern friends, who so bitterly oppose the practice of the saints in having a plurality of wives, ever go to heaven, gain an admittance into the "heavenly city," it will be by passing through a gate upon which is written the name of a polygamous child, only to be ushered into the presence of such notorious polygamists as Abraham, Jacob, and many of the old prophets.

It appears to the writer that modern Christians must either learn to tolerate polygamy or give up forever the glorious hope of resting in 'Abraham's bosom,' a hope which has ever given a silvery lining to the clouds which hang about the deathbed of the dying Christian. But the indignant unbeliever in the rightfulness of a plurality of wives, rather than associate with polygamists, may prefer to pluck off his crown, lay aside the golden harp of many strings, give up the pleasure of walking the gold-paved streets of the holy city whose "builder and

maker is God," and take up his abode outside where the whoremonger, the liar, and hypocrite dwell, and where there is weeping and gnashing of teeth. Surely he must do this or make up his mind to honor those who have believed in and practiced plurality of wives—more properly celestial marriage.

Right here it might be as well to mention the fact that according to the genealogies given by Matthew and Luke, so far as the earthly parentage of Jesus is concerned, he came of a polygamous lineage, some of his progenitors being polygamous children, and many of them practiced that form of marriage. Surely some other line of descent would have been chosen for the Son of God if polygamy were sinful.

In the laws given to ancient Israel—and God was their lawgiver—we find several which more than foreshadow the permission to practice plurality of wives. Here is one in Exodus which regulates the practice by forbidding the husband to diminish the food of the first wife, her raiment, or her duty of marriage when he takes him another wife: "If he take him another wife, her food [i. e., of the first wife], her raiment, and her duty of marriage shall he not diminish."

Again, we find a law regulating inheritances in families:

"If a man have two wives, one beloved and another hated, and they have borne him children, both the loved and the hated; and if the first-born son be hers that was hated; then it shall be that when he maketh his sons to inherit that which he hath, that he may not make the son of the beloved firstborn before the son of the hated, which is indeed the firstborn; but he shall acknowledge the son of the hated for the firstborn, by giving him a double portion of all that he hath; for he is the beginning of his strength; the right of the firstborn is his."

It may be claimed that this law relates to cases of a man having two wives in succession, and that is true; but it also relates to the case of a man having two wives simultaneously, and this idea is more forcible when we remember that Israel was a polygamous nation; and this is where the force comes in as an argument concerning plural marriage: Both women are regarded as wives, their rights and the rights of their children are considered equal, and if the second wife, even though she be hated, should bear the first son, that son must not be defrauded of his birthright; he must inherit a double portion of his father's possessions. This construction is not strained; it is natural, and proves that God intended to provide for the rights of the polygamous wife, as well as to protect the first wife in hers. This careful legislation gives us another instance of God's approval of polygamy.

We quote another law:

"If brethren dwell together, and one of them die and have no child, the wife of the dead shall not marry without unto a stranger. Her husband's brother shall go in unto her, and take her unto him to wife, and perform the duty of an husband's brother unto her, and it shall be, that the firstborn which she beareth shall succeed in the name of the brother which is dead, that his name be not put out of Israel."

How eminently unjust this law would be if God regarded polygamy as sinful and prohibited its practice. Under such circumstances a young man would be liable to have forced upon him his brother's wife and would be debarred from making any choice of a wife for himself. But there is no provision in the law which exempted a man who already had a wife from taking his deceased brother's wife. It is as binding on those already married as upon the single and would occasionally

enforce the practice of polygamy. Those who refused to comply with the requirements of this law were disgraced before all Israel by the wife of the deceased brother, before all the elders, loosing the latchet of his shoes and spitting in his face, and forever after "his name shall be called in Israel, the house of him that hath his shoe loosed."

Is it possible that God was such an imperfect legislator that He enacted laws for His people, which, if obeyed, would enforce upon them the practice of that which was sinful, that which would destroy the purity of the family, and undermine the prosperity of the state? Yet such must be our conclusions if we adopt the opinions of the modern religionist and moralist who persist in saying that a plurality of wives, even though practiced under divine direction, and hedged about with all the restraining influences of religion, will result in these calamities to society. Need I comment on this presumption in poor, weak, short-sighted man, or exclaim how consummate is that egotism that will call in question the wisdom of the Great Jehovah's laws?

The following is a summary of the reasons we have for believing that God approved of a plurality of wives as practiced by the ancient patriarchs and many of the leaders and prophets of Israel, and that in this sense polygamy is justifiable "from a biblical standpoint:"

First. When a polygamous wife deserted the family of which she was a member, the Lord sent an angel to bid her return to that family, and promised to make her seed a great nation.

Second. The Lord heard and answered the prayers of polygamous wives, blessing their marriage by granting them children; and, in the case of Rachel, the second wife of Jacob, performing what men call a "miracle"—making the barren fruitful—in attestation of his approval of her polygamous marriage with Jacob.

Third. The men who practiced plural marriage by no means forfeited the peculiar blessings promised to them before they were polygamists; on the contrary, the promises were renewed to them, and greater blessings added—God continuing to be their friend, and revealing himself and his purposes to them.

Fourth. God himself gave unto David a plurality of wives, thus becoming a party to the evil, if polygamy be sinful.

Fifth. God owned and blessed the issue of polygamous marriages—making a marked contrast between them and illegitimate children.

Sixth. So far as the earthly parentage of Jesus is concerned, he came of a polygamous lineage, which certainly would not have occurred had polygamy been unlawful and the issue spurious.

Seventh. The Lord gave unto ancient Israel a number of laws under which polygamy was not only permitted, but in some instances made obligatory.

The force of the cases here cited does not depend upon technical translations of particular passages of scripture; they sweep through the whole history of Israel and are interwoven in the legislation of the Hebrew race." And while all this may not justify men now—with-

"After this article was written it occurred to me that in order that no question might arise between Doctor Reiner and myself about the proper translation of passages quoted, I had better quote from the Roman Catholic English translation of the scriptures, but on comparing the texts in that version of the scriptures with the King James's translation, the one commonly used by us, the difference was so slight and immaterial that I judged it to be unnecessary to make the change.

out further commandment from God--in marrying a plurality of wives, what is here set forth does establish the fact that God did approve of a plurality of wives as practiced by His ancient servants, and presents an array of testimony so strong that not even the authoritative voice of Rome can strike down its force, nor the odium that may attach to some of the coarse utterances of Martin Luther and his associates on the subject affect the fact of God's approval of that form of marriage. And that which He approves, and so strikingly approves, must be not only not bad, but positively good, pure, and holy.

Therefore I conclude that since God did approve of the plural marriage custom of the ancient patriarchs, prophets, and kings of Israel, it is not at all to be wondered at that in the dispensation of the fullness of times, in which he has promised a restitution of all things, that God should again establish that system of marriage. And the fact of God's approval of plural marriage in ancient times is a complete defense of the righteousness of the marriage system introduced by revelation through the Prophet Joseph Smith.

Mr. TAYLER (addressing counsel for the respondent). You recall Mr. Budge testifying that George Osmond was a polygamist, do you not?

Mr. WORTHINGTON. If he did, it is in the record.

Mr. VAN COTT. It may be true, but I do not remember it. If that is so, the record shows it.

Mr. TAYLER. I know; but we do not want to be skirmishing around all over the record to see how to correct this tabulated list.

I was suggesting, Mr. Chairman, in view of the way this proof comes in as to which of these church authorities are polygamists, and the way the asterisks are put upon it, that we had better put an asterisk ourselves in front of those who have been testified here to be polygamist, so that there may be no misleading information in the published tabulated statement.

The CHAIRMAN. Counsel will consent that that shall be done?

Mr. WORTHINGTON. Certainly.

Mr. TAYLER. For instance, George Osmond was testified to be a polygamist by Bishop Budge.

Senator McCOMAS. Is he not marked?

Mr. TAYLER. He is not marked. He is a Wyoming senator, and it made quite an impression upon me--George Osmond, president of Star Valley stake. He is not marked here.

Senator McCOMAS. You might ask Mr. Talmage whether he is a polygamist or not.

Mr. TALMAGE. I do not know the gentleman at all.

Senator McCOMAS. You do not know by reputation whether he is a polygamist or a monogamist?

Mr. TALMAGE. No, sir; I know nothing about him or his reputation.

Senator McCOMAS. You do not pretend to answer for those who are not marked?

Mr. TALMAGE. No, sir; nor for all of those who are marked, by any means. I will simply repeat that where I have heard that a man is a polygamist, and that man's name here occurs, I find it marked by a star, but I do not vouch for the correctness.

Mr. VAN COTT. We will look in the records, Mr. Chairman, between now and morning and see if it shows in Mr. Budge's testimony that Mr. Osmond is a polygamist.

The CHAIRMAN. Have you anything further with this witness?

Mr. WORTHINGTON. Nothing further.

The CHAIRMAN. Have you anything further, Mr. Tayler?

Mr. TAYLER. Nothing further.

Senator McCOMAS. The witness does not pretend to say the list is accurate. He says it is, to the best of his knowledge and belief.

Mr. TAYLER. Of course, Doctor Talmage is not to be held responsible for these asterisks at all.

Mr. WORTHINGTON. I am afraid I am responsible for those. I asked them, in sending it, to mark the names in that way for the information of the committee.

Mr. TAYLER. Nor is he to be held responsible, as a witness, for them.

Mr. WORTHINGTON. No.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. Mr. Stohl.

The CHAIRMAN. Mr. Stohl has been sworn, I believe.

Mr. STOHL. Yes, sir.

TESTIMONY OF OLEEN N. STOHL--Resumed.

OLEEN N. STOHL, having been previously sworn, was examined and testified as follows:

Mr. VAN COTT. Mr. Stohl, in reading over your testimony I will ask you if you are satisfied with the answer or answers that you made to certain questions of Mr. Tayler, and I will read it:

"Mr. TAYLER. Did not President Kelly complain of it at the Sunday school conference, that some of the young men had erected a dancing pavilion in direct competition with the opera house, and in opposition to the wishes of the stake presidency and the high council?"

"Mr. STOHL. No, sir."

Are you satisfied with your answer?

Mr. STOHL. No, sir; I am not.

Mr. VAN COTT. What is the correct answer?

Mr. STOHL. The fore part of that, ending with opera house, I wish to say no to, and the latter part of it I would say that in his remark he referred to the matter of those young men coming and getting counsel on that point.

Mr. VAN COTT. With that exception, are you satisfied with your testimony?

Mr. STOHL. With that part. I would like to have you go on a little further there.

The CHAIRMAN. The witness can make any correction he desires to make, of course.

Mr. VAN COTT. I will read further then what follows immediately after.

Mr. STOHL. Yes, sir; just the next.

Mr. VAN COTT (reading):

"Mr. TAYLER. He did not say that?"

"Mr. STOHL. No, sir; he did not say that."

Mr. STOHL. That refers to this matter.

Mr. VAN COTT. Shall I read further?

Mr. STOHL. Yes, sir.

Mr. VAN COTT (reading):

"Mr. TAYLER. And that"—

Mr. Tayler apparently quotes—

“‘We will fight it out to the bitter end.’ Is that right?

“Mr. STOHL. I do not remember that.”

Mr. STOHL. I wish to say, in relation to that matter, that in thinking it over I remember that he used those remarks or that phrase in connection with his remarks.

Mr. VAN COTT. Have I read sufficiently, Mr. Stohl?

Mr. STOHL. Yes; that covers it.

Mr. VAN COTT. Have you made the corrections you desire?

Mr. STOHL. Yes, sir.

Mr. TAYLER. Mr. Stohl, who was clerk of your council; Nephi Anderson?

Mr. STOHL. I think Nephi Anderson was clerk at the time.

Mr. TAYLER. Let me show you this paper and ask you if that is Nephi Anderson's signature [handing witness a paper].

Mr. STOHL. I think it is.

Mr. TAYLER. I will read that in order to have it identified with this subject.

OFFICE OF THE PRESIDENCY OF THE
BOX ELDER STAKE OF ZION,
Brigham, Utah, August 1, 1903.

Elder CHRIS CHRISTENSEN, *Brigham, Utah.*

DEAR BROTHER: You are hereby notified to appear before the high council of the Box Elder stake of Zion Monday, August 3, 1903, at 2 p. m., in the tithing hall and show cause why the hand of fellowship should not be withdrawn from you as a member of the Church of Jesus Christ of Latter-Day Saints for rejecting the counsels of the stake presidency and high council, which you repeatedly sought, and for disregarding the decisions of the high council which were given in your case.

NEPHI ANDERSON, *Clerk of Council.*

Mr. TAYLER. Did that refer to this dancing-hall business?

Mr. STOHL. Yes, sir.

Mr. TAYLER. I just wanted to identify it. Let me hand you this paper and ask you if you recognize the signatures to that [handing witness a paper]?

Mr. STOHL. Yes, sir.

Mr. TAYLER. They are genuine, are they?

Mr. STOHL. I think they are.

Mr. TAYLER. I will read it:

OFFICE OF THE FIRST PRESIDENCY OF THE CHURCH
OF JESUS CHRIST OF LATTER-DAY SAINTS.
P. O. Box B, Salt Lake City, Utah, June 3, 1904.

Elder CHRIS CHRISTENSEN, *Brigham City.*

DEAR BROTHER: We have this day written the presidency of Weber stake of Zion requesting them to sit with the high council of the Box Elder stake in the trial of the case, set for the 9th instant, between yourself and President Kelly.

Your brethren,

JOS. F. SMITH,
JOHN R. WINDER,
ARTHUR H. LUND,
First Presidency.

Mr. TAYLER. Was that with reference to the same subject?

Mr. STOHL. A continuation of it; yes, sir.

Mr. TAYLER. And it was after this letter and the trial that followed that the agreement concerning which you testified the other day was entered into?

Mr. STOHL. Yes, sir.

Mr. TAYLER. I wanted to identify the subject-matter of the correspondence.

Senator OVERMAN. What is the date of that correspondence?

Mr. STOHL. One is dated in August, 1903, and the other June, 1904. I think the others I read—at least, what appear in the record.

Mr. VAN COTT. That is all.

The CHAIRMAN. Who is your next witness?

Mr. VAN COTT. David Eccles. He is in the committee room of the Committee on Ways and Means of the House just at this time.

The CHAIRMAN. He will be sent for.

POSTMASTERS IN IDAHO.

Mr. WORTHINGTON. While we are waiting for him, Mr. Chairman, there are some matters relating to papers here to which I wish to call the attention of the committee.

I do not remember that a conclusion was reached on our suggestion that this report of the investigation made by the Post-Office Department into polygamous postmasters in Idaho should go into the record. You will remember that the testimony introduced here on behalf of the protestants as to Idaho went not only into political matters there, which was the principal subject of inquiry, but also very largely into the situation there in relation to polygamy, and our testimony has been addressed partly to that feature. An inquiry was made by an officer of the Government, who went there and made an inquiry upon the subject, and while the subject-matter of the inquiry is only as to the polygamous relation of the postmasters there, this officer went very largely into the whole question and obtained information that is of great value here, because the situation in Idaho is practically what it was in Utah.

The CHAIRMAN. Mr. Worthington, that, as you know, is a public document, accessible to the committee and to the Senate, and it seems unnecessary to insert it.

Mr. WORTHINGTON. My idea about it was this, that probably if a member of the Senate, for instance, who has not heard any of this testimony, as most of them have not—indeed, a great many members of the committee have heard little of it—should come to this matter and see it referred to it would be a great deal more convenient for him to look it up in the record than it would be to send for the public document, and it would be a matter of great convenience to have it right in the record, it seems to me.

Senator McCOMAS. The whole document?

Mr. WORTHINGTON. No; just the report. I have no objection to the whole document going in, but the report of Officer Fosnes is the only thing I care for. The action on his report has nothing to do with the matter here. This is an independent investigation by officers of the Government as to these matters, almost every word of which is very interesting in connection with the investigation that has been going on.

Senator OVERMAN. Is it a statement of fact, Mr. Worthington, or a statement of opinion?

Mr. TAYLER. Facts and opinions.

Senator McCOMAS. Would it not be taken notice of without being inserted in the record?

Mr. WORTHINGTON. I have no question, Senator, that it would be taken notice of, and we could refer to it in our arguments. It is only a question of having it in the record. I have no question about its being considered as evidence. It is the convenience of having it in the record that I am concerned about.

The CHAIRMAN. This document is accessible to every member of the Senate, and counsel can secure as many copies as they want. I hope counsel will not consider it necessary to have it go in the record.

Mr. WORTHINGTON. It is a parallel case to the way in which the Supreme Court requires us to make a part of the record the opinion of the court below. Of course they are printed somewhere else and they can find it, but many a member of the Senate who, having the record before him, would turn to it and look at it, will not bother about sending to the document room to get it.

The CHAIRMAN. Have you any objection to it, Mr. Tayler?

Mr. TAYLER. I do not like to let it go in the record as a part of the testimony. I have had no opportunity to cross-examine the gentlemen making this report.

Senator McCOMAS. I should think it might go in for the convenience of counsel. It is a small matter. I want to refer to one remark of counsel. He spoke of Senators not seeing it, and then added: "Members of the committee have not been here and heard——"

Mr. WORTHINGTON. Not heard all of the testimony.

Senator McCOMAS. I think it proper to say that it is safe to assume that the members of the committee who have not been present will very faithfully look over the testimony.

Mr. WORTHINGTON. Oh, yes; I have no doubt of that.

Senator McCOMAS. Many of the Senators were not able to be here at all the hearings because they were obliged to attend meetings of other committees.

Mr. WORTHINGTON. It is for their convenience as much as for that of anybody else that I want this in the record.

The CHAIRMAN. Have you another witness here, Mr. Worthington?

Mr. WORTHINGTON. No; not now. If you are through with that I want to call up another matter, Mr. Chairman.

The CHAIRMAN. Very well; do so. I want to look at this document.

AFFIDAVITS OF BATHSHEBA W. SMITH AND M. W. MERRILL.

Mr. WORTHINGTON. I spoke yesterday, and was speaking, I think, at the time we took the adjournment, about some affidavits that I wish to offer. I have an affidavit here of Apostle Merrill that he had never heard of Huldah Olson, the woman whom he is alleged to have married since the manifesto, and I find, what I had overlooked, that I have another and fuller affidavit from him to the effect that he has not married her and has not married any other wife since the manifesto, and that the testimony of Mr. Owen, which is the only testimony in the case as to his being reputed to have taken a plural wife since the manifesto, is incorrect.

I have also ascertained as to his physical condition, as there is some testimony here on the subject, that he is unable to travel.

Senator McCOMAS. What is his name?

Mr. WORTHINGTON. Marriner W. Merrill. He is one of the apostles.

I have an affidavit here—and numerous witnesses have testified who have seen him and know him—that he is bedridden. The doctor says he has diabetes. He is in his bed, and it would be a matter of very great importance to us to have his deposition taken.

We also have an affidavit of Bathsheba W. Smith. Senator McComas was not here, I think, yesterday when I spoke of that matter. Bathsheba W. Smith is, I think, the only living survivor of those who were members of the Mormon Church at Nauvoo at the time of the death of Joseph Smith, jr. She states in the affidavit that she took the endowment ceremony during his lifetime and has been acquainted with it since, and knows it is the same now that it was then. A number of witnesses have testified that it has never been changed. The importance of that would be seen in this, that of course if this endowment ceremony was originated by Joseph Smith, necessarily it could not have contained anything about avenging his blood on anybody. She is an old woman, over 80 years of age.

We have her affidavit here, and while we would be glad to have these affidavits received as evidence, under the circumstances we have strenuously objected to that evidence, and it has not been received. I think, except in the case of a man named Bowen. In that case the affidavit was filed and properly entered in the record.

The CHAIRMAN. What is his name?

Mr. WORTHINGTON. Charles James Bowen. Over our strenuous objection his affidavit was received and is a part of the record.

Now, I would like to have these affidavits filed and made part of the record for this reason if for no other—that, as was stated in the early stages of this investigation, it is an investigation and not a trial, and the members of the committee are entitled to not only have information such as would be legal evidence, but information which will enable them to know where legal evidence can be obtained. It will be a very simple and easy matter to have the depositions of these old people taken under the order of this committee, and all parties here, if they desire, can be represented by counsel, and this matter, which is incorporated in these affidavits, can be presented here in the shape of testimony, the competency of which nobody would question.

Of course I am not here representing the Mormon Church, much less any of its apostles, except the one the right to whose seat in the Senate is now in question; but it would seem to me only common fairness that after the witness has been allowed to come here and testify that it is reputed that this old man has taken a plural wife in violation of the law of his church and of the law of the land since the manifesto, and he is a bedridden old man, he should be allowed in some way to get his statement on the record that that is not true; and so as to the matter of Bathsheba W. Smith.

As to Apostle Teasdale, as to whom the testimony tends to show that he is unable to come here also, there is no question about the facts in the case, so there is no occasion for having an affidavit from him, or an affidavit. He did go through a marriage ceremony many years ago, and with that relation, whatever it was, still existing he took another wife. The record which we have here, you will remem-

ber, showed that that first marriage was annulled and never was consummated. There it is simply a question about the inference to be drawn from the fact, and not a question of fact. I ask the committee to allow these affidavits to go into the record, and further ask them to make the order, or intimate that the order will be made, and then counsel can agree upon it, that the depositions of these witnesses shall be taken. The commission could be transmitted by telegraph, if necessary, and we could have the depositions here in three or four days.

Senator McCOMAS. Have you any observations to make, Mr. Tayler?

Mr. TAYLER. I do not care a feather's weight whether any of these things go in or out, so far as the value that they have as testimony is concerned. There is no reason why, if their depositions were needed, they should not have been taken. It is five weeks since Mr. Owen testified, and it is six weeks since the other witnesses testified about the endowments, and the endowments were referred to also last spring. I think diligence is the thing that has not been observed with reference to this testimony.

Mr. WORTHINGTON. Mr. Chairman, I think the imputation of one who is soon to be one of our judges can not be directed to the counsel for Senator Smoot in this case. Of course, there are some matters that might have been attended to at an earlier date and were not; but we were called upon to go over testimony covering in the neighborhood of fifteen hundred pages when the case for the protestants was closed here a few weeks ago, and be prepared to go on in three weeks, the holidays intervening. Senator Smoot, from the moment that the evidence on behalf of the protestants was closed down to the hour we resumed here, scarcely took time to eat and sleep while we were engaged in the preparation of this matter, and trying to hurry solely because, as the chairman indicated, it might be submitted to the Senate before the close of this session.

Mr. TAYLER. Did not the subpoena to Apostle Merrill call upon him to bring the books of Logan Temple respecting marriage?

Mr. WORTHINGTON. I do not know about that.

The CHAIRMAN. That was a subpoena duces tecum, to my certain knowledge.

Mr. WORTHINGTON. Apostle Merrill is the man who is sick in bed.

Mr. TAYLER. Does he say in his affidavit anything about the books?

Mr. WORTHINGTON. He does not say anything in his affidavit about the books. As far as I am concerned I know nothing about him, but it is not likely that if he is in bed he has the books of Logan Temple in his possession; he is a bedridden old man.

The CHAIRMAN. You propose to introduce these affidavits and ask to have a commission issued for examining—

Mr. WORTHINGTON. Let me make the motions separately.

I ask to have the affidavits filed first. I can call the attention of the committee to a case where the affidavit of Bowen was admitted after very strenuous argument.

Senator OVERMAN. I understand there is no objection to it, Mr. Chairman.

Mr. WORTHINGTON. Bowen was the man who made an affidavit saying he had been deposed from his office, as I understand.

Mr. TAYLER. I would rather leave that affidavit go in than to take any time about it. That is the affidavit you read yesterday.

The CHAIRMAN. Let it go in. The committee can pass upon the value of statements of that sort.

Mr. TAYLER. Undoubtedly.

The affidavits referred to are as follows:

In the Senate of the United States. In the matter of Senator Reed Smoot.

STATE OF UTAH, *County of Salt Lake, ss:*

Seymour B. Young, being first duly sworn, deposes and says that he is a practicing physician in the city and county of Salt Lake, State of Utah; that he is well acquainted with Bathsheba W. Smith, and that because of her age and the feeble condition of her health she is not able to take the journey to Washington, D. C., for the purpose of giving testimony before the Committee on Privileges and Elections in the investigation of Senator Reed Smoot.

SEYMOUR B. YOUNG, M. D.

Subscribed and sworn to before me this 5th day of January, A. D. 1905.

[SEAL.]

JAMES JACK, *Notary Public*.

My commission expires August 6, 1905.

STATE OF UTAH, *County of Salt Lake, ss:*

Bathsheba W. Smith, being first duly sworn, says that she is over 82 years of age; that she is in feeble health and unable to travel to Washington, D. C., to appear as a witness in the investigation in the matter of Senator Reed Smoot.

Affiant further says that she is, and ever since 1837 has been, a member of the Church of Jesus Christ of Latter-Day Saints; that in January of the year 1844 she took her endowments at the city of Nauvoo, in the State of Illinois, under the immediate direction of the prophet Joseph Smith, jr.; that she has ever since been familiar with the endowment ceremonies, and since the opening of the Salt Lake temple in 1893 has officiated therein.

Affiant further says that the endowment ceremonies are the same now as they were when she first took her endowments in 1844, and that there has never been any change in them; that there is not now, and never has been, any oath, covenant, or obligation in or connected with the taking of said endowments to avenge the blood of the prophets on this nation, or on any other nation, or on the inhabitants of the earth, and that there is no prayer in said ceremonies to have the blood of the prophets avenged on this nation or on any other nation.

BATHSHEBA W. SMITH.

Subscribed and sworn to before me this 4th day of January, 1905.

[SEAL.]

JAMES JACK, *Notary Public*.

My commission expires August 6, 1905.

STATE OF UTAH, *County of Cache*.

To whom it may concern:

On the 31st day of December, A. D. 1904, before me, S. W. Hendricks, a notary public in and for Cache County, State of Utah, personally appeared Marriner W. Merrill, who, being duly sworn, deposes

and says that he has no wife by the name of Ellen Nordberg, nor by the name of Jane Toronto, nor by the name of Hulda Olson. He further says that he has not taken or married any wife, or woman to be his wife, since President Woodruff's manifesto of September, A. D. 1890. And he further says that Mr. C. M. Owen's testimony, before the Committee on Privileges and Elections of the United States Senate in the so-called Reed Smoot investigation, in so far as it relates personally to the said Marriner W. Merrill, is misleading, erroneous, and incorrect.

MARRINER W. MERRILL.

Subscribed and sworn to before me this 31st day of December, A. D. 1904.

[SEAL.]

S. W. HENDRICKS,
Notary Public.

My commission expires June 5, 1907.

Senator McCOMAS. Have you any information as to the mental condition of Mr. Merrill and of Mrs. Smith?

Mr. WORTHINGTON. Witnesses have testified as to Bathsheba Smith. Mr. Booth, who knows her, testified that her mental condition seems to be very good. As to Apostle Merrill, there is nothing said about him.

Senator McCOMAS. Is his condition known by anybody here? His mind may be very clear, but ordinarily the affidavit of a bedridden man would probably be of very little value.

The CHAIRMAN. The affidavits will go in, and the committee will consider anything further in regard to it.

Mr. WORTHINGTON. What does the committee say as to the issuing of a commission to have the depositions of these two people taken?

Senator McCOMAS. If we accept the affidavits for what they are worth, what is the use of taking their testimony?

Mr. WORTHINGTON. Counsel say they have no opportunity to cross-examine, and the affidavit is of much less weight than the testimony would be.

Mr. TAYLER. I am not complaining.

Senator McCOMAS. They would have no time to cross-examine, anyway.

Mr. WORTHINGTON. They could easily have counsel there to represent them.

There seems to be nobody here who can give us direct information about the mental condition of Apostle Merrill.

Senator McCOMAS. I suggest that it go in, subject to the assurance of counsel that this old lady is of sound mind, and that you can prove it.

Mr. WORTHINGTON. That has been proved already, Senator.

Senator McCOMAS. And as to Apostle Merrill, if he is bedridden, nevertheless his mind is clear.

Mr. WORTHINGTON. We will ascertain about that. There must be somebody here to give us information in that regard.

The CHAIRMAN. Have you any other affidavits?

Mr. WORTHINGTON. No other affidavits.

The CHAIRMAN. Very well.

J. H. WALLIS, SR.

Mr. WORTHINGTON. Mr. Chairman, there is a matter about which I am a good deal concerned, which was brought up incidentally in connection with the testimony of Mr. Langton. I may say for the benefit of Senators who perhaps were not here, that Mr. Wallis was a witness and testified that the obligation taken by those who take the endowments is that they call upon high heaven to avenge the blood of the prophets on this nation. I called a witness here who knew him, and after testifying that he had talked with him and knew him well, said that he was of unsound mind, in his opinion. I then asked him to state upon what facts that allegation of unsoundness of mind was based. Objection being made, I stated that I expected to prove that the man had stated to the witness in all seriousness that he was in communication with the devil, and stated the communication which he had received from the devil, and that he would refrain from that communication in the future, and the chairman held that that was incompetent evidence.

We have examined the authorities—and I have had my partner, Mr. Frailey, make the examination for me principally, and look up the cases—and I find without any exception the authorities hold, and some of the highest courts in the States, that that is competent and proper evidence, and we have the books here.

The CHAIRMAN. Is the witness here?

Mr. WORTHINGTON. He is here.

The CHAIRMAN. Then put him on the stand, so as to get that witness out of the way.

TESTIMONY OF WILLIAM LANGTON—Resumed.

WILLIAM LANGTON, having been previously sworn, was examined and testified as follows:

Mr. WORTHINGTON. Mr. Langton, you have stated that in your judgment Mr. Wallis was of unsound mind, and I want you to tell the committee what circumstances you know which led you to reach that conclusion. I would like you to be as brief as you can in your narration—as brief as is consistent with clearness.

Mr. TAYLER. I object to that. In the first place I do not think it is quite fair to the witness who was charged with this. He is a long way off. In the next place, this very item of evidence was sought to be proven in another relation for another reason, and wholly incompetent and improper, and the witness was excused, and later on it was discovered that this witness had an opinion that the fact which his mouth was closed against before by a proper ruling could be testified to by him under the plea that it was one of those circumstances which the court permits witnesses to testify to when they are undertaking to explain the mental condition of a witness or a party. We all know, who have tried will cases, how all the doors on all sides of the building, and the windows, too, are opened, and everything gets into a case of that kind on the plea that it exhibits the mental condition of the party whose mental condition is the question at issue in the case.

This item of evidence was sought to be shown upon another plan, for another reason, merely to get it before the jury, and then he was

later on called and the effort made to prove the same concrete fact, but as an evidence showing what was his capacity to testify.

Mr. WORTHINGTON. That is to say, Mr. Chairman, that because counsel have made the blunder of supposing that a competent piece of evidence could be admitted on the ground upon which it could not be admitted, his client would lose the benefit of competent evidence when it is offered upon a ground upon which it is admissible. I submit the statement of that proposition is all that is required.

Mr. TAYLER. Of course every door can be opened, and you can prove anything about anybody you please, if you just have a complaisant witness who will come here and say, "This man's mind is not sound."

Mr. WORTHINGTON. If Mr. Tayler objects on the ground that the witness is not to be believed on oath, then if he will state any legal objection in that direction that appears up to the present point, I would like to hear it. He can make his argument after the witness has testified.

The CHAIRMAN. Has this witness stated that Wallis was of unsound mind?

Mr. WORTHINGTON. He has stated that in his opinion Wallis was of unsound mind. I ask him upon what that opinion is based.

The CHAIRMAN. You ask him for the reason for that opinion. The witness can state that.

Mr. WORTHINGTON. Be as brief as you can, consistent with clearness, Mr. Langton.

Mr. LANGTON. Yes, sir. James Wallis, sr., was a close neighbor of mine, living about a block and a half away from my home. He was my teacher. Bishop Frederick Kessler was the bishop of the ward that I lived in. I was his counselor. Mr. Alfred Arrowsmith was a bookkeeper employed at the institution that I am president of. One evening Mr. Wallis came to my place of business and said he wanted to speak to me privately. I took him to the back of the store, and he wanted to be more private. I then took him in the office. He said: "Your bookkeeper, Brother Langton, has informed me that before he could die—he is very sick, having had the typhoid fever then for about three weeks—he has made a dying confession to me; that is, that you set fire to your building here," known as the Equitable Building, which I owned.

I looked at the man and I asked him if he was drunk or crazy. He said, "Well, if you talk that way I will put you in jail to-night." I then opened the office door and called to my partner, Mr. Knott. Said I, "Mr. Knott, listen to what this scoundrel has to say about me." I then repeated, in the presence of Mr. Wallis, what he had told me. Mr. Knott said, "I don't believe it." Mr. Wallis went out of the store. I hurriedly put on my hat, went down to Mr. Arrowsmith's house—

Mr. WORTHINGTON. That was the sick man?

Mr. LANGTON. Yes, sir. He was lying very low, and—

Mr. TAYLER. I object to this.

Mr. WORTHINGTON. You need not tell what was said to Mr. Arrowsmith. Go on to where you came in contact with Mr. Wallis again.

Mr. LANGTON. Mr. Arrowsmith lived. He did not die. He is living to-day.

The CHAIRMAN. We do not care whether he lived or died.

Mr. WORTHINGTON. You saw Mr. Arrowsmith——

Mr. LANGTON. You want the evidence pertaining to Wallis? Is that the idea?

The CHAIRMAN. Yes.

Mr. WORTHINGTON. You saw Arrowsmith. After seeing Arrowsmith, what did you do?

Mr. LANGTON. After seeing Arrowsmith I saw Bishop Frederick Kessler.

Mr. WORTHINGTON. After you saw him, what did you do?

Mr. TAYLER. Skip him, too.

Mr. LANGTON. Do you want him skipped?

Mr. WORTHINGTON. Yes; get down to Wallis again.

Mr. LANGTON. It is very necessary that he be not skipped.

Mr. WORTHINGTON. No; it is not necessary. Go on and tell us when Wallis appeared on the scene again.

Mr. LANGTON. Wallis appeared on the scene at a later date and confessed.

Mr. TAYLER. Hold on; what did he say?

Mr. WORTHINGTON. What did he say?

Mr. LANGTON. He said he was sorry for what he had done; that the devil prompted him, while administering to Alfred Arrowsmith—prompted him to extort money from me; and he promised me, in the presence of Bishop Kessler, if I would forgive him he would never have any further communication with his satanic majesty.

Mr. WORTHINGTON. Is that all of it?

Mr. LANGTON. No.

Mr. WORTHINGTON. Did he resume his communication?

Mr. LANGTON. I told him if he would leave the ward where I lived and never have any further communication with the devil, I would let it rest at that, at the advice of the bishop. I did not see the man only on two occasions following that, one occasion of which he was drunk. He moved to another ward. The next I heard of him was when I read his testimony in my house. I turned to my wife——

Mr. WORTHINGTON. Never mind.

Mr. TAYLER. Skip her, too.

Mr. LANGTON. I don't want to skip her, gentlemen.

Mr. WORTHINGTON. Mr. Langton, when he came to see you, before he confessed that the devil told him to do this, to extort money, did he say anything about money?

Mr. LANGTON. He asked for a receipt for a year's rent that he owed me and \$5,000. That is when I asked him whether he was crazy or drunk.

Mr. WORTHINGTON. That is all.

The CHAIRMAN. What is the date of that?

Mr. LANGTON. That was in 1896, I believe.

Senator OVERMAN. That is the only reason you have for believing him insane?

Mr. LANGTON. I would believe any man insane that would charge me with a thing like that.

Senator OVERMAN. That is the only reason you have for believing him insane?

Mr. LANGTON. No, sir; I have seen him drunk since then and acting crazy. He acts like a crazy man, anyhow.

Mr. TAYLER. How does he act?

The CHAIRMAN. That was nine years ago.

Mr. LANGTON. About eight or nine years ago.

Senator OVERMAN. Do you regard all people who are drunk as insane?

Mr. LANGTON. Not necessarily so; no, sir.

Mr. TAYLER. He has been crazy ever since?

Mr. LANGTON. He was crazy at that time.

Mr. TAYLER. No; he has been crazy ever since, has he?

Mr. LANGTON. I have not seen him only on two occasions since then.

Mr. TAYLER. You testified that he was crazy when he testified here, did you not?

Mr. LANGTON. I do look upon him as crazy; yes, sir.

Mr. TAYLER. So that he has been crazy ever since?

Mr. LANGTON. I presume he has, if he has continued to have intercourse with the devil.

Mr. TAYLER. Exactly; and that is your reason? You know he has had intercourse with the devil, do you?

Mr. LANGTON. Since then?

Mr. TAYLER. Yes.

Mr. LANGTON. I do not.

Mr. TAYLER. What did you say he was crazy for now?

Mr. LANGTON. When he came here and lied I think he was crazy.

Mr. TAYLER. So you know he lied?

Mr. LANGTON. I think he did.

Mr. TAYLER. Did you hear Mr. Dougall testify that he importuned God to revenge the blood of the prophets on this generation?

Mr. LANGTON. No, sir.

Mr. TAYLER. If he said it, did he lie?

Mr. LANGTON. Read the question, please.

The reporter read as follows:

“Mr. TAYLER. Did you hear Mr. Dougall testify that he importuned God to revenge the blood of the prophets on this generation?”

Mr. LANGTON. I would not like to say Mr. Dougall lied. I am not acquainted with the gentleman. I do not know the subject he was talking about.

Mr. TAYLER. How do you know Mr. Wallis lied?

Mr. LANGTON. Because he lied about me.

Mr. TAYLER. Oh, you say he lied because he lied about you? When Mr. Dougall said they were importuned to avenge the blood of the prophets on this generation, did he lie?

Mr. LANGTON. I think he did.

Mr. TAYLER. Why? How do you know he lied?

Mr. LANGTON. I have reasons for knowing.

Mr. TAYLER. Did Mr. Dougall lie when he said that he was importuned to avenge the blood of the prophets on this generation? Did he lie?

Mr. LANGTON. Did he so state?

Mr. TAYLER. Yes; he did so state. Did he lie?

Mr. LANGTON. I would like to see what he said before I answer the question.

Mr. TAYLER. Just answer my question. If he said it, did he lie?

Mr. LANGTON. Well, I did not read Mr. Dougall's testimony. I read his. I would like to see the question.

Mr. TAYLER. Answer the question. If he said it, did he lie?

Mr. LANGTON. I would not like to charge Mr. Dougall with lying.

Mr. TAYLER. Then Mr. Dougall may have told the truth when he said that in the endowment ceremony this occurred, that he was importuned to avenge the blood of the prophets on this generation? Did he lie about that?

Mr. LANGTON. I think he must be mistaken.

Mr. TAYLER. He must be mistaken?

Mr. LANGTON. I think so; yes, sir.

Mr. TAYLER. Mr. Wallis lied and Mr. Dougall may have been mistaken?

Mr. LANGTON. I will qualify that by saying Mr. Wallis lied about me.

Mr. TAYLER. We are not talking about what he said about you, but what he said as a witness, because we only have your word that he lied about you.

Mr. LANGTON. You have the words of others who are living, sir.

Mr. TAYLER. What is your statement about Mr. Dougall? Did he tell the truth?

Mr. LANGTON. I do not think he did.

Mr. TAYLER. You do not think he did? All right.

Mr. LANGTON. I think he must have been mistaken.

Mr. TAYLER. You had some trouble about that building burning down, did you not?

Mr. LANGTON. What kind of trouble?

Mr. TAYLER. Business trouble.

Mr. LANGTON. No, sir.

Mr. TAYLER. Did you make an assignment?

Mr. LANGTON. I would like to explain that, please.

Mr. TAYLER. Did you make an assignment?

Mr. LANGTON. I will say no in answer to that, sir.

Mr. TAYLER. You did not? Did you settle with your creditors?

Mr. LANGTON. I would have to explain it that the committee may understand it.

Mr. TAYLER. Did you settle with your creditors? Did you?

Mr. LANGTON. A portion of them, yes, sir; except those who attached.

Mr. TAYLER. Were you not charged with fraud by the rest of them?

Mr. LANGTON. No, sir.

Mr. TAYLER. Which of them did you not settle with; any of them?

Mr. LANGTON. I would have to explain to the committee.

Mr. TAYLER. All right; that is all.

Mr. LANGTON. It reflects upon my character and I have a right to explain it.

Mr. WORTHINGTON. You have been asked about why you did not settle with your creditors, and you wanted to explain it. I ask you to go on and explain it.

The CHAIRMAN. I hardly think that is necessary, Mr. Worthington.

Mr. LANGTON. Kindly let me explain, will you, Mr. Chairman?

Mr. WORTHINGTON. Never mind, Mr. Langton, we do not care to ask you about that.

The CHAIRMAN. Mr. Langton, I have forgotten whether you are an adherent of the Mormon Church?

Mr. WORTHINGTON. Oh, yes; he testified to that.

Mr. LANGTON. Yes, sir.

The CHAIRMAN. And have taken the endowments?

Mr. LANGTON. Yes, sir.

Mr. WORTHINGTON. He was asked about that and he declined to answer it.

The CHAIRMAN. And you declined to state what they were?

Mr. LANGTON. Yes, sir.

The CHAIRMAN. And you decline now?

Mr. LANGTON. Yes, sir; for the same reason which I —

The CHAIRMAN. I do not care for that. We have not time. Has this Mr. Wallis been in the asylum during the last five years?

Mr. LANGTON. Not to my knowledge.

The CHAIRMAN. You would have known it, I suppose. You have not heard that he has been in the asylum?

Mr. LANGTON. No, sir.

The CHAIRMAN. Who is your next witness, gentlemen?

Mr. VAN COTT. We have nothing further to-day, Mr. Chairman.

The CHAIRMAN. Can you not put on the other witness? I sent for him.

Mr. VAN COTT. Yes; we can put him on.

The CHAIRMAN. Counsel, understand the circumstances. We are required to attend very soon the impeachment trial in the Senate, and we will not be able to give attention to committee matters while that is going on.

TESTIMONY OF DAVID ECCLES.

DAVID ECCLES, being duly sworn, was examined and testified as follows:

Mr. VAN COTT. What is your name?

Mr. ECCLES. David Eccles.

Mr. VAN COTT. What is your age?

Mr. ECCLES. Fifty-five.

Mr. VAN COTT. Where do you reside?

Mr. ECCLES. Ogden, Utah.

Mr. VAN COTT. How long have you resided at Ogden, Utah?

Mr. ECCLES. Forty years.

Mr. VAN COTT. Are you a member of the Mormon Church?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. Are you acquainted with Margaret Helen Geddes?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. I will ask you whether, since the manifesto of 1890, you have either been married or sealed to her or any other woman?

Mr. ECCLES. No, sir.

Mr. VAN COTT. Did you know Mrs. Geddes's husband?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. Did he used to work for you?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. Did he die while in your employ?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. Did he leave more than one wife surviving him?

Mr. ECCLES. He left two.

Mr. VAN COTT. After his death did you contribute to the support of those two wives?

Mr. ECCLES. Yes, sir; partly so.

Mr. VAN COTT. And you have continued to do so ever since?

Mr. ECCLES. Yes, sir.

Mr. VAN COTT. Mr. Owen testified that it was reputed that you had married Margaret Helen Geddes since the manifesto. I will ask you whether you have in any way ever been married or sealed to her or any other woman since that manifesto.

Mr. ECCLES. I have not.

Mr. VAN COTT. Take the witness.

Mr. TAYLER. Mrs. Geddes's husband died how long ago, Mr. Eccles?

Mr. ECCLES. I think about thirteen years. I am not right positive of the year.

Mr. TAYLER. And she has been living where for the past few years?

Mr. ECCLES. At Salt Lake, I think.

Mr. TAYLER. You have been supporting her, have you not?

Mr. ECCLES. No, sir; I have not.

Mr. TAYLER. You have been contributing to her support?

Mr. ECCLES. Yes, sir; partly.

Mr. TAYLER. She is reputed to be a good woman, is she not?

Mr. ECCLES. Yes.

Mr. TAYLER. And she has had a child since her husband died?

Mr. ECCLES. So I understand.

Mr. TAYLER. I do not want to do you an injustice at all, Mr. Eccles, but do you not think that the fact that you have contributed to her support, the fact that she is reputed to be a chaste woman, the fact that she has had a child born since her husband died, and, if it is a fact, that she was not known to be intimate with any other man, might raise the question whether you were not her polygamous husband?

Mr. ECCLES. I never thought of it in that way.

Mr. TAYLER. You could understand how such a repute could arise now, could you not, however innocent your relations with her?

Mr. ECCLES. She had other children, and I have been giving her and the other family more or less about four times a year ever since the husband died.

Mr. TAYLER. Is she reputed to have a husband now?

Mr. ECCLES. No, sir; she is not.

Mr. TAYLER. Since the manifesto, then, you have not taken a plural wife?

Mr. ECCLES. I have not.

Mr. TAYLER. That is all.

Mr. VAN COTT. Mr. Chairman, we would like to have Mr. Eccles and Mr. Langton excused.

The CHAIRMAN. They may be excused. Who is your next witness, gentlemen?

Mr. WORTHINGTON. We have no other witness to-night, Mr. Chairman.

The CHAIRMAN. How many more witnesses have you?

Mr. VAN COTT. Just one.

The CHAIRMAN. Can you not call him to-night?

Mr. VAN COTT. Yes; we can, but it has been a very tedious day, Mr. Chairman.

Mr. TAYLER. Will he be a long witness?

Mr. VAN COTT. Yes; he will be a long witness. We can probably finish in the morning with him.

Senator McCOMAS. Mr. Tayler, you have no more witnesses, I understand?

Mr. TAYLER. No.

The CHAIRMAN. You have only one witness more, gentlemen?

Mr. VAN COTT. That is all.

The CHAIRMAN. Do you think you can conclude it in the forenoon?

Mr. VAN COTT. We never can tell how long the cross-examination will be. I should imagine we will get through with him early in the afternoon, anyway. In the case of Mr. Stephens we thought we would finish with him in the forenoon, but we did not. It is rather difficult to guess on those things.

The CHAIRMAN. Mr. Worthington, in regard to this report of the Post-Office Department, it was a report made by the chief of the inspectors, M. C. Fosnes, I believe.

Mr. WORTHINGTON. Yes.

The CHAIRMAN. And the resolution as passed was that "The Postmaster-General be, and he is hereby, directed to ascertain, as far as possible, and report to the Senate, what, if any, postmasters in Idaho are living in polygamy."

On page 5 of this pamphlet he makes his report and goes into the whole history of the Mormon Church, apparently, from the beginning, without attention to the resolution, and finally, on page 11, he comes to the resolution and then takes up and investigates and reports upon the officers named by Mr. Dubois. I think that portion of the report in which he examines in response to the resolution as to the number of postmasters living in polygamy or having plural wives is proper, but I do not see how the other bears on the case.

Mr. WORTHINGTON. I would like to look at it, Mr. Chairman, with reference to that to see whether we care to offer it at all then. I will look over it between now and to-morrow morning.

The CHAIRMAN. The committee will adjourn until to-morrow morning at 10 o'clock.

The committee (at 5 o'clock and 5 minutes p. m.) adjourned until Wednesday, January 25, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 25, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), Knox, and Dubois; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

M. W. MERRILL.

The CHAIRMAN. Mr. Worthington, are you ready to proceed?

Mr. WORTHINGTON. Mr. Chairman, about the matter of which Senator McComas spoke, as the mental condition of Apostle Merrill, who has made an affidavit of recent date, we have been unable to get any direct information, which is satisfactory to us, later than last summer. Mr. Howell, the Representative in Congress from Utah, saw him last summer, and he states that his mental condition was all right then. In regard to that we will obtain an affidavit from some competent physician out there and file it. It is a small matter, and I suppose can be done at any time?

Mr. TAYLER. Yes.

THE TEASDALE CASE.

Mr. WORTHINGTON. Then as to the record in the Teasdale case, the chairman says that counsel can agree upon the matter. We have not yet had time to get together on it.

The CHAIRMAN. You can do that at your leisure.

TAKING OF TESTIMONY CLOSED.

Mr. WORTHINGTON. That being true, Mr. Chairman, we rest here.

The CHAIRMAN. Mr. Tayler, have you anything to submit?

Mr. TAYLER. We have nothing in rebuttal that I think of.

FURTHER PROCEEDINGS BEFORE THE COMMITTEE.

The CHAIRMAN. Are you ready to proceed, gentlemen, with the arguments this morning? I suppose counsel will be glad to be heard briefly.

Mr. WORTHINGTON. On the matter of argument to which reference has been made, the situation presented to us is rather embarrassing. Of course, so far as the members of the committee are concerned, some of them have heard all of the testimony or nearly all, and, as Senator McComas stated, those who have not heard it all have undoubtedly kept informed of it by reference to the printed record.

But this matter must finally be presented to the Senate, and we have taken it for granted that there would be formal written briefs filed on each side, which could be used not only by members of the committee, but also, if occasion required, by any member of the Senate who might wish to see what counsel on the respective sides had to say.

It has occurred to us, since the committee desires that this matter shall be disposed of at once, that we might have an understanding of this sort: That we should proceed to argue the matter orally this week, and each side should have leave to file printed briefs, either with the committee or in the Senate. It would be, of course, utterly impossible properly to present such a case as this, involving now in the neighborhood of 3,000 printed pages of testimony, in such shape that any lawyer would want to have it considered as his presentation of the case, immediately now on the close of the evidence.

I should say, since it involves so much matter, that it is utterly not supposable that the individual Senators would all be able to take up this record and read it. Hence they ought to have the benefit of carefully prepared statements of the case from the respective standpoints of counsel on each side. If that can be done, if we can make our oral arguments to the committee now—and those, I suppose, would go into the record—and hereafter, under some arrangement that may be made with the committee, formal printed briefs may be presented and filed, it will be satisfactory to us.

The CHAIRMAN. Is that satisfactory to you, Mr. Tayler?

Mr. TAYLER. Entirely so.

Of course the committee will have its own opinion as to how soon those briefs must be filed, and whether it is the purpose of the committee to dispose of the case at once. I have no wish to express in that respect.

The CHAIRMAN. Mr. Worthington, how much time would you require in which to file your printed brief?

Mr. WORTHINGTON. As to that the committee might make an order that on or before a certain date counsel for the protestants should submit his brief to us, and then we should have proper time, to be fixed by the committee, to file our brief in reply.

Mr. TAYLER. I am going to make my argument right before this committee, and I am not going to say anything more, unless it should be a little condensed account of the testimony. What I say will be reported, and it will express my view of the case and of the way in which it should be treated, and the law upon which the action of the committee should be based. There will be nothing in the printed matter which I shall present that will be contested, unless it be my interpretation of some of the testimony. But that would be purely as taken from the printed record here. You might find one witness saying a thing favorable to you, and I might find him saying something favorable to me. But with those exceptions there would be no occasion for a contradictory view of two briefs.

Mr. WORTHINGTON. I should say that that is about all the use a brief would be in this case or any other—that counsel in the first place set forth the extracts of the evidence which they deem support their side of the case, and then state their deductions from them; and after we have received from counsel on the other side the extracts from the record on which they rely principally, and their deductions from it, we should want to have a reasonable and proper time to prepare our reply to it, by whatever name the document might be known.

The CHAIRMAN. I understand that the counsel for the protestants intends to submit to the committee now all that he expects to say on this subject.

Mr. WORTHINGTON. No. Counsel says that that is all, except he may prepare and submit to the committee an abstract, as I understand, of some portions of the evidence, and in that his interpretation of the evidence. Of course that is a brief.

The CHAIRMAN. I had not concluded my statement.

Mr. WORTHINGTON. I beg pardon.

The CHAIRMAN. And that he might file a document or brief stating his view of or the interpretation to be placed on the evidence, or that he might not.

Mr. WORTHINGTON. Whether he did or did not would make no difference to us, because if he selects from this immense mass of printed matter the portions upon which he relies we ought to have an opportunity to print other portions of the evidence which, in our judgment, would bear upon the same points.

Mr. TAYLER. Mr. Chairman, I had no thought of presenting anything to the committee except what I present orally; and, of course, if the other side wants to present some elaborate brief, proper consideration for my view of the case would require, perhaps, that I should do the same. But, after all, if the plan as proposed is carried out, it is idle to hope for any disposition of the case at the present session of Congress; for if I am to prepare a brief on our side, and that must be printed after it is prepared, and then sufficient time be given to the other side to prepare a brief in reply to it, and then the committee take such time as the committee ought, to consider such able briefs as would be filed under those circumstances, the 4th of March will have passed away before the committee will have had a chance to consider the case.

The CHAIRMAN. Why can not this be understood? You present your case, and all you expect to say on the subject, to the committee, which will be taken down.

Mr. TAYLER. That is what I had intended to do. I had thought nothing else would be necessary.

The CHAIRMAN. And then you will have leave to present any reply which may be deemed necessary by you to the brief presented by the counsel for the respondent.

Mr. TAYLER. That is satisfactory to me.

Mr. WORTHINGTON. Mr. Chairman, that is not satisfactory to us, because that reverses the natural and universal order in such matters—that counsel for defendant should prepare a brief and the prosecution should reply to it.

Mr. TAYLER. I do not want to file one.

The CHAIRMAN. It was understood that Mr. Tayler does not intend to file any brief for the protestants.

Mr. WORTHINGTON. We do desire to file a formal brief, prepared with care, and of course prepared within such time as may be necessary in order to enable the matter to be taken up and disposed of at this term of Congress.

The CHAIRMAN. How much time do you want?

Mr. WORTHINGTON. That we have not considered. In fact, we have had no consultation among ourselves at all about the matter of argument.

The CHAIRMAN. So far as concerns the filing of briefs, that can be determined later.

Mr. WORTHINGTON. Very well.

The CHAIRMAN. Proceed with the argument, gentlemen.

Mr. WORTHINGTON. Is it the desire of the committee to go on with the argument at once?

The CHAIRMAN. How is that, Mr. Tayler?

Mr. TAYLER. I would rather not go on to-day, because I was notified that the case would proceed to-day. But I could, if necessary, go on now.

Mr. WORTHINGTON. No.

Mr. TAYLER. But I would prefer to go on in the morning.

Mr. VAN COTT. That will be agreeable.

The CHAIRMAN. To-morrow morning at 10 o'clock?

Mr. TAYLER. And I should like to have a full attendance of the committee.

Mr. WORTHINGTON. I make the same suggestion.

The CHAIRMAN. The Chair will personally see every member of the committee and ask him to be present. Some members of the committee have not attended with regularity because they were overwhelmed with other business. The Senator from Pennsylvania (Mr. Knox) was not a member of the committee until recently, and all will desire, so far as I know, to hear the arguments. Every effort will be made to accommodate Senators, so that they can be here.

Then it is understood that the arguments will begin in the morning at 10 o'clock?

Mr. TAYLER. Yes.

Mr. WORTHINGTON. The next question is, whether there will be any limitation as to the time.

The CHAIRMAN. I was about to inquire what is the desire of counsel in regard to the time required.

Mr. TAYLER. I hardly know. I think I should want about three hours.

The CHAIRMAN. Mr. Worthington, how much time would you want?

Mr. WORTHINGTON. We have not considered the matter. It seems to me we shall need considerably more than three hours properly to present this case. I should say that I would want that much time myself.

The CHAIRMAN. Of course, I mean to open the case.

Mr. WORTHINGTON. Yes.

The CHAIRMAN. Then there would be some time in closing. Would four hours on a side be sufficient?

Mr. TAYLER. Make it five.

Senator KNOX. I think it would be of very great benefit to the committee that the gentlemen have pretty full time to present not only the questions of law and fact which they propose to rely upon, but to recapitulate pretty fully the testimony in support of those propositions. I know it would be of great advantage to me, not having had the benefit of hearing the early part of the case.

The CHAIRMAN. It would be of very great advantage to every member of the committee.

Mr. TAYLER. It would be very difficult to make an oral argument that would contain what we would want to supply in a brief. Speaking for myself, while I think there ought to be some limit, because everybody ought to have a limit, I do not think the—

Mr. WORTHINGTON. Why not give the rest of the week for argument?

Mr. TAYLER. Yes.

Mr. VAN COTT. That would be only three days.

Mr. WORTHINGTON. To comply reasonably with the suggestion of Senator Knox and present in oral argument extracts from the evidence, however briefly, would make it absolutely impossible. Mr. Chairman, it seems to us, to present this case and finish this week. If on the other hand we are to present our general conclusions about the matter in a brief, and hereafter file references to the testimony in a brief, then it could be done by confining the arguments, in the usual hours of sitting, to this week.

Let me say, also, that we have just closed the testimony. We have taken perhaps 1,000 pages of evidence ourselves, and for myself I have not had any time to read a single bit of it. It will be necessary to have some time to go over it in order to prepare and compile the extracts. If that is to be done and the arguments to be submitted now, it will be impossible to do it at once. We would have to have time to prepare it and then to go on next week with the arguments. I am not at all clear but that it would be better to give us the rest of this week for our arguments, and it might be we could present them so fully and satisfactorily that there would be no occasion for filing briefs hereafter.

The CHAIRMAN. Counsel understands the peculiar condition. Mr. Tayler is obliged to be away after this week, and the arguments, of course, so far as he is concerned, must proceed this week.

The Chair would suggest that counsel proceed with the argument, making it as full as they possibly can, with such references as they deem necessary to present their view of the law and the evidence in the case, and that then either party may be permitted to file such

briefs as they wish, if they so desire, within a certain time to be designated.

Mr. WORTHINGTON. Let us go on with the understanding that we shall have the rest of the week for arguments.

The CHAIRMAN. I would not say that, because there is to be a trial in the Senate on Friday.

Mr. WORTHINGTON. Is it likely that the case will go on then?

The CHAIRMAN. It is impossible to say. I do not know. But let us proceed with this case as early as we can, with some understanding, if possible, as to the length of time required. Would five hours on a side be sufficient?

Mr. WORTHINGTON. It seems to me it would be utterly impracticable to make any proper presentation of this case in five hours on a side.

The CHAIRMAN. Then the committee will have to confer in relation to the matter and fix a time.

Mr. WORTHINGTON. Very well.

Senator KNOX. Of course this is a court in a sense and in a sense it is not. The function of counsel is to direct the attention of the committee to the propositions of law and fact upon which they rely. Now, if you have the opportunity to do that in five hours, gentlemen, with leave to supplement it by an additional brief or argument, to be filed within a certain number of days, without referring your own to your adversary or he to you, why could you not in your printed argument supply anything that the shortness of time would prevent you from submitting orally?

Mr. WORTHINGTON. We could do that, Senator. But the argument here would be merely a presentation of the points, practically.

The CHAIRMAN. You can say a good deal in five hours.

Mr. WORTHINGTON. Yes.

The CHAIRMAN. You are in your usual health?

Mr. WORTHINGTON. I am told by stenographers that I talk about as rapidly as most people.

The CHAIRMAN. Yes. Suppose, then, it be understood that five hours on a side will be granted, with the right to file briefs subsequently. And, Mr. Tayler, you will then begin to-morrow at 10 o'clock, taking such time as you desire in opening. Then we will hear the other side, and Mr. Tayler will have the right to close. That will enable us to close Friday night.

I hope the impeachment case in the Senate, which comes up at 1 o'clock on Friday, will not take much time that day, so that the committee can go right along. With that understanding, of five hours on a side, the argument to begin to-morrow morning, and that there will be a strenuous effort on the part of the chairman to have every member of the committee present, as I know every one desires to be, the committee will stand adjourned until to-morrow morning at 10 o'clock.

THE TEASDALE CASE.

It is agreed that on the 9th day of December, 1899, George Teasdale, referred to in this case as one of the apostles of the Mormon Church, began a suit in the district court of the fifth judicial district of the State of Utah against Lillias H. Teasdale, in which the plaintiff averred that

he had married the defendant at Salt Lake City on or about October 14, 1875; that he had been a resident of the State of Utah more than one year next prior to the commencement of the action; that immediately after the said marriage the plaintiff discovered that on account of the physical incompetence of the defendant it was impossible for her to have sexual intercourse, and that such physical incapacity was well known to the defendant at the time of the marriage, but was wholly unknown to the plaintiff.

The plaintiff further charged that the said incapacity on the part of the defendant still continues, and he thereupon demanded judgment "that the marriage between him and the said defendant may be dissolved and annulled, according to the statute in such case made and provided."

2. That said defendant, Lillias H. Teasdale, was duly served with summons to appear in said action, and that said court acquired full jurisdiction of her and of the subject-matter of said suit.

3. That on the 17th day of January, 1900, said court, after hearing testimony in said case and considering the case, and being fully advised, found that all the averments of the complaint in said case were established and that the plaintiff was "entitled to a decree of this court dissolving and annulling the bonds of matrimony heretofore existing between the plaintiff and defendant, decreeing the plaintiff and defendant each to be freed and absolutely released from the bonds of matrimony and all obligations thereof."

4. That on the 17th day of January, 1900, a final decree was entered in said cause dissolving the marriage between the plaintiff and the defendant and freeing each of them absolutely from the bonds of matrimony and all the obligations thereof.

That this stipulation may be filed in the case, and with the same effect as though the record itself had been introduced in evidence.

"STEERING COMMITTEE."

Mr. VAN COTT. Mr. Chairman, it will be remembered that when Richard W. Young was on the stand, references were made to certain extracts from the Salt Lake Herald with reference to what was called the "steering committee." The proceedings of the committee in relation to this matter will be found on page 130 of the third volume of the testimony. The articles have since come to hand and I now submit them.

The CHAIRMAN. The articles will be inserted in the record.
The articles are as follows:

[The Salt Lake Herald, Salt Lake City, Monday, April 13, 1896.]

That steering committee—Did the church attempt to influence legislation?—Critchlow alleges it—If an attempt was made, was it improper?—Interviews with every member of the alleged committee—Some strong denials—Chairman Powers nails his colors to the mast—E. B. Critchlow, the Republican leader in the house, stands by his statement—Representative Monson throws some light on the subject.

Following closely upon the heels of the new manifesto comes another sensation, which has created scarcely less stir.

For the past few days there have been rumors to the effect that during the session of the legislature the Mormon Church had a steering committee appointed for the purpose of directing legislation.

On Saturday the Argus gave the names of those constituting this alleged committee, as follows: F. S. Richards, C. W. Penrose, W. W. Riter, J. M. Tanner, W. H. King, James Sharp.

CRITCHLOW'S LETTER.

This is followed by the following letter from Hon. E. B. Critchlow, recognized as the Republican leader in the house during the recent session:

"Five and one-half years ago the leaders of the Mormon Church issued the celebrated manifesto enjoining upon the people of the church the strict observance of laws which, prior to that date, had been defiantly violated. Six months later the People's Party, the power of the church, was dissolved, and with others I hastened to accept the pledges and promises given by leaders and members of that church that the differences which had so long rankled between us should be forever settled. We accepted the assurances given, and even at the risk of obloquy and abuse from former associates proclaimed our trust and confidence in the integrity of the Mormon people. One of the charges, as you know, made against us was that, without trial and contrary to the belief and teachings of a lifetime, we proposed to permit Mormons as well as other American citizens to exercise political preferences and to ally themselves with the two great political parties. I proclaimed then, as I have ever since, and still do proclaim, my faith in the good faith and common honesty of the people at large. It was as impossible for me to believe then as it is now that the people of this State would not only themselves declare for freedom in all political matters, but permit those of us who rallied to their cause to give our word in their behalf only to trick us in the end. In 1891 the first presidency sanctioned the printing in the Times of an interview in which they solemnly and unequivocally protested that they did not claim nor would they ever attempt to exercise the right to interfere with the political independence of church members.

"Slowly the embers of prejudice died out, the pledges given to the people of the United States by all of us were accepted, and statehood became an assured fact. Now and again circumstances have pointed to a lack of sincerity upon the part of some high in authority, but while my faith in them has been shaken, my confidence in the great mass of the people whom we know as men, and with whom we strike hands as friends, has never faltered. Until these have finally failed us, no one ought to doubt the capacity of the people of Utah for self-government. The events of the past few months, and especially those which have crowded so close upon the late general conference of the church, have led men to ask whether we have been too hasty in believing, and whether the trust bestowed is to be violated, and it can not be denied that nonmembers of the church are anxiously asking, as the people of the entire country will soon ask, whether a mistake has been made.

"As one of the members of the late legislature, in a position to know by close association with them of the temper and disposition of the members sent from various parts of the State, I still maintain that an honest, sincere intent exists on the part of most of them to carry out, in letter and in spirit, promises given by them and in their behalf.

"But there is indeed grave reason to think that as much can not be said of those, or some of those, high in authority and influence, in

whose care and keeping the good name of the Mormon people is left. In other words, the very persons who, as leaders of the church, guaranteed the liberties of the individual members of the church in all political matters seem to be the first to betray them and put them to open shame before all the world.

"The great question of the hour is not whether there has been and is an intolerable interference by church leaders with the affairs of state, but whether there is to be any open, indignant, and widespread repudiation of this betrayal of the people. As it seems to me, the wonder is not that a few men exercising unbounded power in matters spiritual should desire or even attempt for ambitious ends to exercise that power in matters political, or even that a few, trained to follow counsel and advice, should so far forget their duty to themselves and to their constituents as to be controlled in these matters, but that as yet no protest has arisen by voice or pen from anyone of the many whose rights are invaded.

"I do not wish to hint darkly at matters which are of such moment to every man, whether in or out of the church. There should be no cry of 'peace,' 'peace,' when there is no peace. The interference to which I refer is the attempt by 'advice' and 'counsel,' directly and mediately, from the leaders of the church to control legislative action.

"In at least five several and distinct cases was such attempt made during the session of the legislature just closed. Nor do I refer to such 'advice' and 'counsel' as might properly be given by individuals as such, enforced by arguments and reasons, but to that kind of advice and counsel which is enforced by threats of church discipline, entailing the obedience due to a spiritual superior.

"The existence of a committee or junta of five individuals appointed and set apart by the leaders of the church to pass upon all proposed legislation, to approve or veto pending measures, not upon considerations affecting the State, but affecting the persons under whose direction they are acting, is an anomaly, a monstrosity, in this land of free government. It is to my mind as wicked as it is presumptuous. The fact that a majority of these men so appointed and set apart to control a Republican executive and legislature were Democrats is but the least of the objectionable features. The question at once arises, if the authority is anywhere lodged to appoint such a junta, or star-chamber council, to control and improperly influence the executive and legislative branch of the government, does it not equally exist for the purpose of controlling judicial actions? The departments are but coordinate. And have we, in the last analysis, any guaranty that in the end this or some similar committee will not be appointed to supervise the work of courts and juries?

"It would seem as though it is high time for the people of this State to declare anew by some as yet unheard-of manifesto, some new declaration of independence, their abhorrence of this system of government; or failing that, to relinquish in dark despair all hopes of free institutions.

"E. B. CRITCHLOW."

E. B. Critchlow was seen yesterday afternoon, and said:

"I do not care to say anything for publication at this time. My sentiments were fully expressed in the letter which I gave to the Tribune, and beyond that I have nothing further for publication.

"But you must have some knowledge upon which to base the assertions made in the paper mentioned; do you not care to give them, so people will know of what you were talking?"

"Not at this time. Whatever knowledge I have I shall reserve until I deem it wise to make it public. I wrote the letter advisedly and with a full knowledge of what the statements were. I made no mistakes in my effort to convey what I said."

THE UNIVERSITY BILL.

It is stated upon the best of authority, the word of men whose word is as good as their affirmation, that when the university bill had been vetoed, the cabinet referred to held a meeting in the office of Hon. F. S. Richards, in the McCornick Building. There were present Mr. Richards, Mr. Penrose, Mr. Riter, Mr. Sharp, and Judge King.

Mr. Kerr, the man who was interested in the passage of the measure, was also present and argued for the passage of the same over the veto of the governor, which was made but a day or so previous to this gathering.

When he had completed his remarks, a motion was made by one of the party, "that we do not recede from the advice previously given."

On a vote all voted aye, with the exception of Judge King, who voted in the negative.

Mr. Kerr then announced his intention of working for the passage of the bill, the veto of the governor to the contrary notwithstanding, and was asked if "he knew what he was doing?" to which he returned an affirmative answer, and added that the bill was a good one and he wished it to become a law.

It is absolutely stated that following this statement on his part, he was asked if he knew the committee was acting under the advice and direction of the church authorities and its action was such that it must be obeyed.

To this he also made answer that he did not know such was the case, and even so he did not propose to relax his efforts in the direction indicated.

The proceedings of this meeting were reported immediately to two of the leading members of the Salt Lake bar by Kerr himself, and he appeared to be very much chagrined at the turn affairs had taken, inasmuch as he had been very active in the support of the bill.

HOW IT WAS RECEIVED.

There was no denying the fact that these statements were received with dismay all over the city, and all hoped, for the good of the State, that they would prove unfounded.

The Herald undertook to obtain interviews from each one named as a member of the committee and succeeded, although the result is not as reassuring as it might be.

C. W. PENROSE.

C. W. Penrose, of the presidency of the Salt Lake stake, was found at the Third ward meeting last night after he had addressed the ward conference. The gentleman's attention was called to the sentiment of Mr. Critchlow to the effect that the church had had a steering committee, and was asked what he knew about it.

"There was no committee appointed by the church that I know of," responded Mr. Penrose. "I am somewhat familiar with legislative matters, and members of the legislature occasionally asked me for my judgment. I met with F. S. Richards and we called in a few other gentlemen, some Democrats and some Republicans. Members of the legislature asked us what we thought of certain measures. That was all there was to it. In some instances our recommendations were not carried out. We had no authority from anybody and made no attempt whatever to control the legislature. As for the governor, I never spoke to him but twice on legislation. In one instance he had already made up his mind, and in the other he took an entirely different view from the one I held, and of course carried out his own ideas."

JAMES SHARP.

James Sharp was seen at his home yesterday afternoon and asked about his connection with the steering committee.

"I am not aware that any committee was appointed by the church authorities. I have read the statement in the Argus and Mr. Critchlow's letter, but there is no foundation, in fact, to either of these when the statement is made that the church exerted undue influence over the Mormon members of the legislature for or against any proposition.

"As an old resident, and for many years a member of former legislatures, I was consulted on several measures, but gave my opinion and lobbied as a private citizen; no more, no less. There was no committee appointed by the church—at least, not that I know of."

W. W. RITER.

W. W. Riter spoke much the same way. "It is the supremest bosh," he said. "On two or three occasions I was consulted about certain measures, but I was never aware of the existence of any committee appointed for such purposes as Mr. Critchlow intimates."

J. M. TANNER.

J. M. Tanner again spoke differently relative to the existence of a committee, but denies emphatically that it was appointed with the object in view to hold the ecclesiastical lash over the heads of Mormon members of the legislature. He said that at the time the university bill was under consideration it was generally understood that the measure was objectionable to the Mormon Church as it gave any institution of learning in possession of \$100,000 worth of property the power to confer degrees. After the bill had passed the house he was invited by Mr. Sharp to work against the bill, which he did. Mr. Tanner was under the impression at the time that the first presidency was opposed to the measure, and that a committee had been appointed, although he, personally, had never been approached by the church authorities. He would have lobbied against the bill even if he had not been invited to do so.

"The church, I understand," he continued, "was not in favor of the bill and had it submitted to Franklin S. Richards, Judge King, and myself for legal examination, and I understood that Mr. Sharp and Mr. Riter were associated. However, we worked against the bill, and it was defeated. No church influence was used, and the talk that we

approached only Mormon members is wide of the mark. I personally consulted Senator Booth about the matter. What the church did was in nowise of a political nature. That is all I know about this matter."

W. H. KING.

Judge King positively denied that he was on any such committee, and as far as he knew, none existed. He has not seen the heads of the church on any such business; had not sent any message to them nor received any communication from them, directly or indirectly. In fact, Mr. Cannon, whom he had seen on legal business connected with the power dam, was the only high church official he had talked with on any subject since the legislature convened. He had not been consulted by the governor on any bill; had not even spoken to him further than to say, "How do you do?" when he met him on the street. Judge King then volunteered the statement that he was the attorney for the Brigham Young Academy, and when the bill in reference to the State empowering the academy to confer degrees was pending in the legislature he was consulted in his legal capacity, and in that capacity had a consultation with F. S. Richards, the attorney for the church, the Brigham Young Academy being a church institution. That measure was the only one he had been consulted upon during the whole life of the legislature.

F. S. RICHARDS.

F. S. Richards, when approached on the subject, declined to be interviewed. The accusation that a steering committee had been appointed by the heads of the church to influence the governor in matters of legislation was so vague, no names of either the appointers or appointees were, as far as he knew, mentioned, and why he should rush to defend himself when, as far as he knew, there was no accusation against him, wasn't quite clear to Mr. Richards. He had nothing to say on the subject, but conveyed the idea that he had no knowledge of any such committee if it existed. Talking further, Mr. Richards said he personally had been consulted by the governor on two or three occasions in reference to certain bills, but that was not extraordinary, because every governor for the last twelve years had asked his views on some pending legislation during their terms of office.

REPRESENTATIVE MONSON.

Representative Monson, of Cache County, was found by a Herald reporter last night. The gentleman was very reluctant to discuss the matter at all, but when asked point blank if he did not have reason to believe that there was a steering committee sanctioned by the church, replied:

"Yes, I have. But the committee did not, to the best of my knowledge and belief, ever attempt to influence the governor. I learned of the existence of such a committee from a Republican member, who said it had been appointed by the leaders of the church. I do not believe that it accomplished anything with the house. The fact is that measures favored by the committee were defeated in the house."

[The Salt Lake Herald, Salt Lake City, Tuesday, April 14, 1896.]

About that "committee"—Direct statement from the first presidency of the church—They make a flat denial—How the rumor came to be started—Presidents Cannon and Smith talk freely—They referred certain parties who made inquiries regarding legislation to the gentlemen designated as a "junta," simply because they were experienced in legislative affairs.

A Herald reporter visited the office of the presidency of the Mormon Church yesterday afternoon for the purpose of ascertaining from headquarters what truth, if any, there is in the charge that the church had appointed a "steering" committee to supervise the work of the last legislature.

President Woodruff was not there, but Presidents Cannon and Smith were found.

Those two gentlemen very freely expressed themselves. The conversation was a desultory one, having been participated in not only by the gentlemen named, but by Apostle H. J. Grant, who was present and was familiar in part with the events discussed.

FLATLY DENIED.

Presidents Cannon and Smith stated substantially as follows: That they had not appointed, nor had they had anything to do with the appointment of such a committee.

They stated that at various and numerous times during the session of the legislature, from beginning to end, people had come to them, not only Mormons, but so-called gentiles, urging that steps be taken to prevent unwholesome, or to secure desirable, legislation. To these repeated requests and suggestions—only one of which, by the way, had come from a member of the legislature—the presidency had replied that they were not informed as to the legislation in question and had no time in the multiplicity of their duties to investigate it, recommending that it would be well to consult some of those residents of the city who were experienced in legislative matters, such as James Sharp, William Riter, F. S. Richards, and others. They disclaimed having any thought or desire that the gentlemen thus referred to should act as a committee with authority to decide for or represent the views of the first presidency, but were actuated simply by the thought that these gentlemen might be consulted, one or all, to ascertain their personal views upon, or requested to use their influence for, such laws as they themselves might deem needful and against such other laws as they might deem to be injurious.

NO ATTEMPT TO INFLUENCE.

To this extent and no further was any committee appointed to act for the church as a "steering committee" for legislation. Presidents Smith and Cannon stated that there was no legislation that they had sought to secure or defeat through the offices of this or any other committee. They stated that very naturally they felt much concern as to the general course of legislation. President Woodruff having been specially anxious that taxation should not be unnecessarily multiplied; that they all felt that if a number of experienced men like Messrs. Richards and King, who had been presidents of legislative councils, and Sharp and Riter, who had been speakers, and other men who had been in the legislature, would interest themselves in the

course of legislation for all the people of the State it would be a patriotic and valuable service. They had not sought to influence any legislation, and had gone no further than to agree on not more than two or three occasions with people urging the demerits or merits of a bill that if the bill was as undesirable or as desirable as was represented, it ought, respectively, to fail or pass.

THE COLLEGE BILL.

So far as their intercourse with the alleged committee is concerned they stated that the members thereof had never been around to consult them except in two or three instances, and then not all of the alleged members, but only one or two, such, for instance, as in the case of the so-called college bill, which was thought to affect the church schools and upon which the presidency were consulted, not only by President Kerr, of the B. Y. College at Logan, the author of the bill, but by Messrs. Penrose and Sharp, both of whom are connected with the church schools. Even in this instance they had expressed no desire to control legislation; they had even entertained varying views on the merits of the bill. Messrs. Penrose and Sharp had consulted President Smith only, the other members of the presidency not having been present when they called.

NO MESSAGES TO LEGISLATORS.

The gentlemen stated that they had not conveyed any message to any member of the legislature that a committee for consultation had been appointed; that they did not know how frequently the proposed gentlemen had been consulted, if at all, nor to what extent, nor on what measures they had consulted members of the legislature.

APOSTLE GRANT.

Apostle Grant stated that during the session of the legislature some person had informed him that he had been appointed by the first presidency a member of a committee to supervise the work of the legislature; that thereupon he had gone up to the office of the first presidency and had been informed that there had been no such committee appointed and that consequently he had not been appointed a member of such a committee.

GOVERNOR WELLS.

Governor Wells does not take a serious view of the matter at all. He looks upon the statements made as a huge joke and laughs when the "junta" is mentioned in his presence. He yesterday stated that if such a body of men existed it was without his knowledge and that he had never been approached by anyone in connection with the bill other than ordinary citizens.

The governor says he has no advisers other than the attorney-general and that the church authorities have never approached him in order to influence legislation in any way; neither has anyone claiming authority talked with him.

[From the News.]

The Deseret News, the organ of the church, discussed the matter in a leading editorial last evening as follows:

"The periodicity of the anti-Mormon outburst on the part of the local politicians and preachers can not be quite so regularly and accurately calculated as the invasion of seven-year locusts, but it is considerably more frequent, more absolutely certain, and just about equally mysterious as to its causes and effects. Just now the bubbling over grows out of the pique and disappointment of a few parties with reference to the work of the late legislature upon certain proposed bills. For some days before the end of the session dark hints and suspicions were given forth by one of two members that a malign and dreadful influence was being used to compass the defeat or postponement of certain measures. This 'influence' was claimed to be nothing more nor less than the mailed and heavy hand of the Mormon Church, which was alleged to have selected an industrious lobby with the special business of commanding legislators to vote down, or the governor to veto, every bill that the said lobby had not passed upon approvingly. As stated, these insinuations were only whispered or hinted at during the session itself. But when, at the recent general conference of the church, an important rule of discipline and conduct as applied to high positions in the priesthood was reasserted, explained, and accepted by the people, the mutterings of the malcontents grew louder, and at last one of them, Representative Critchlow, has come out with a letter in which he makes a specific charge as to the existence and labors of a 'Mormon committee or junta' to pass upon and approve or veto pending legislation. He has scared one paper into sounding a call upon young Utah to come out and assert its freedom from ecclesiastical domination, and has with inexplicable ease caused quite a number of nervous people to think there is a burning need for a new declaration of political independence.

"There is hardly anything serious enough in all this to deserve explanation. And yet the News feels anxious at all times to do its part toward removing fear, promoting confidence, and correcting misunderstanding. In this instance the matter ought to be easy, for a very plain tale can put the whole hideous, fearful nightmare to flight.

"Here are the facts: Legislators, business men, lawyers, editors, mining men, all classes of the community in fact, felt that there was danger of the first State legislature attempting to cover too much ground. Most of its members were untried in lawmaking, yet all were zealous and patriotic. But new conditions existed, new burdens had come upon the people, new laws and methods of procedure were a necessity, and there was an almost universal feeling that the danger was not in doing too little, but in experimenting with too much. The News took this ground as early as the opening of the constitutional convention a year ago, and never ceased to argue and defend it up to the very close of the recent legislative session. We do not hesitate to say further that not only have we in these columns antagonized many proposed laws because of the reasons above given, but that the writer has repeatedly used personal persuasion or influence in the same direction. Others have chosen to do likewise by resolution, by petition, by employed advocates before committees, by personal effort. Anything un-American, servile, improper in all this?

"Now, it happens that some of the oldest and best-known citizens of the State, men whose whole lives have been spent in the interest and welfare of the people, and who have their present and future prosperity and welfare as closely at heart as any men possibly can have,

have been asked to give their views upon or use their influence for or against particular bills which seemed to be in the nature of an unnecessary or inopportune innovation. This request, we repeat, came not only from legislators themselves, but from others of different parties and of different forms of religious belief. As citizens they had the right to comply with such request. As tried and honored members of the community it was perhaps their duty to take a personal interest in it; but they were busy men, occupied from early morning till late at night with labors of another character. They were also leading Mormons, and they might have known, and did know, what a furore would be raised if anybody dared to ask them to say a word for or against anybody's pet bill. So, when asked to bestow attention upon matters with which they were unfamiliar and which they had no time to inform themselves upon, they invariably replied that there were in the community many men of experience in legislation who knew the needs and the financial condition of the people, and that if suggestions upon any particular point were needed such men would be in a better position to offer them. In this there was no more thought of dictating or coercing or dominating than this paper has of terrifying the Czar of Russia; they merely desired that they themselves be let alone on subjects which they had no time to consider.

"Behold, out of this suggestion has grown the idea that they had appointed and set apart a special committee to scrutinize, amend, approve, or condemn every bill, and that any Mormon legislator who disregarded their dictum would be dealt with ecclesiastically—that in short the church was in the saddle and was using its lash with the most alarming vigor. This is what the News is happy to pronounce bosh, nonsense, and false. No threats were or could be made by anybody who had any right to make them, or at least any power to enforce them; no bill was sought for to take particular care of Mormon interests; no measure was opposed because it might hurt Mormons; no coercion was used or attempted in any way, and nothing more was tried or accomplished than any citizen in the exercise of his rights as an American could with perfect propriety try. Sometimes one or two, sometimes three or four, sometimes this man, sometimes some other man, would be willing to examine and give their or his opinion of bills proposed; many were invited to do so or to attend meetings of legislative committees who had to decline on account of other business; but we have not heard either where the invitation was accepted or declined that in any case was there anything but the most cordial feeling and the best of motives shown. Of the men who are spoken of as having been most prominent in this work, two have been presidents of former legislative councils, two have been speakers of former legislative houses, and others were for years members of former legislative assemblies. How many more have been consulted by legislators and the friends or opponents of any particular bill, we have no means of knowing and we do not believe anybody can tell.

"In conclusion, we can only say that it was to the credit of the legislature that it was not ashamed to listen to men who, on special subjects, knew more than most of the members did. The writer takes some honor to himself for assistance of this kind rendered in more than one instance. None of them need be ashamed by reason of anything that disappointed or trouble-breeding politicians may now say. There was on the part of the Mormon legislators no servility or cring-

ing, no loss of independence, no lack of manhood. And on the part of the Mormon leaders there was not, either in act or word or thought, any attempt to use improper influence in any improper way or to do anything but what, when truly understood, could be safely submitted to the intelligence of any honest man, and to the fullest light of day."

[The Salt Lake Herald, Salt Lake City, Tuesday, April 14, 1896—Editorial column.]

The junta affair.

It appears in view of all the information that can be obtained on the subject of the church junta affair that Mr. Critchlow discovered a veritable mare's nest. The interviews secured with the members of the alleged junta and published in yesterday's Herald, together with the interviews that appear in our local columns to-day with Messrs. George Q. Cannon and Joseph F. Smith and Governor Wells, settles the matter beyond question that no such junta was appointed by the church authorities. Even the Salt Lake Tribune, after the flat denial of the governor of the existence of the junta and the failure of Mr. Critchlow when applied to by a Tribune representative to give the necessary proofs of his charges, says editorially: "Putting the two together, if Mr. Critchlow has nothing further to offer, the verdict will be that Mr. Critchlow, after all, had little more than a suspicion behind him, and that up to date young Utah has the best of the situation."

This is an abandonment of the case, over which our neighbor lost its head somewhat the day before. And just where there has been any conflict as between young Utah and old Utah in this matter, by which there is any significance in the statement that "Young Utah has the best of the situation," is difficult to see. Perhaps, however, it was just a little nervous flourish intended for trimmings.

But now that this incident is closed, it is just as well to say that these kind of sensations are not likely to do Utah any good. They interfere with the growth of that confidence which we hope and believe all classes of Utah's people will have in each other, and which must become a characteristic of our community before we can hope to attain that development desired by all.

Men of high character who stood on opposite sides of the old conflict in Utah are pledged to the maintenance of new conditions—of American conditions—and that being the case, it is not well to permit small matters to affect the determination to build up in Utah a great State. There must be mutual trust and mutual recognition of responsibility and effort to depart from the old state of affairs, and work for the creation and maintenance of the new conditions which every one believes to be more desirable.

Mistrust must give way to confidence, and one of the means by which this may be achieved is for both parties to the old fight to refuse to believe charges of bad faith of their former opponents except on proof that amounts to demonstration.

Let us have peace, for unless we have peace we can not have prosperity.

Thereupon (at 10 o'clock and 30 minutes a. m.) the committee adjourned until to-morrow, Thursday, January 26, 1905, at 10 o'clock a. m.

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WASHINGTON, D. C., *January 26, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), McComas, Beveridge, Dillingham, Knox, Pettus, Dubois, Bailey, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

The CHAIRMAN. I will say to the members of the committee present that it was agreed yesterday that counsel for the protestants and for the respondent should each have five hours in presenting their views to the committee, counsel for the protestants to open and close. I understand Mr. Tayler will now open the case on the part of the protestants, and to-morrow counsel for Senator Smoot will be heard. The understanding is that ex-Secretary Carlisle will close the case on the part of the protestants.

Mr. WORTHINGTON. I understood that the arrangement was that we were to finish the arguments to-morrow; that Mr. Tayler should open to-day and we should make one argument this afternoon, and then to-morrow we should make an argument in the morning.

The CHAIRMAN. You will have five hours.

ARGUMENT OF ROBERT W. TAYLER.

Mr. TAYLER. Mr. Chairman and gentlemen of the committee, I am reminded that it is more than a year since the hearing of this case commenced, when the committee was called upon to decide upon the scope and nature of the inquiry, and that since that time probably six weeks have been taken up by the committee in hearing testimony supposed to be pertinent to the inquiry that was being made.

I have no thought of indulging in any rhetorical flight or of traveling outside of the argument immediately applicable to the issues which are made in this inquiry. I have not the time and it would not be worth while. What I have to say I want to say to this committee. I have no other constituency that I am seeking to reach, I have no client who may suffer if you decide against my contention, and I ought to say here that it will be not only entirely agreeable to me, but I think it will minister to lucidity, and perhaps in the end to brevity, if I am interrupted by members of the committee by questions at any stage of my argument. It will not at all disturb the continuity of my argument, and if perchance it should touch upon a point that later on I intend to develop, of course I will so indicate when the question is asked.

Now, a very large amount of testimony has been taken in the case, and only those who have sat through it can appreciate how much there has been of it and how generally it has been absolutely pertinent to the questions that are involved. I, of course, in no argument that I might be physically able to make could undertake to devote much time to quotation from this testimony. I think it is practically all so pertinent that such an effort would involve the reading of a large part of these 3,000 pages.

I have no need to emphasize the importance of this inquiry. It is one of the highest importance. It involves the dignity, the powers, and the prerogatives of the Senate and of Senators. No question in the nature of things could more intimately interest Senators than an inquiry of that sort, one affecting their body and one affecting them as individuals.

Now, I want to say here that according to my view of this case, which may not accord with the view of the multitude, this is purely a question of law and of government, whose foundation is law. It is not a question of morals in anything or in any other respect than incidentally. Of course there is a question of personal morals in certain of the acts which have formed the basis of this demand or remonstrance, but only some of the acts have that quality. But that is only incidental. In the large view which we must take of it, it is immaterial. It is a question of government. It is a question of that upon which government is based—to wit, law.

Can it be said that any man ought to sit as a member of the highest legislative body who is not himself, in truth and in fact, by whatever words he may gloss over his acts of omission or commission, a respecter of the law, the thing that he is here to make? We must differentiate a Senator of the United States from all other individuals who are citizens of this country, but who are not charged with the duty, and upon whom is not laid the responsibility, of making laws.

Nor am I referring merely to the matter of obedience to law. A Senator may disobey a law with perhaps more injury to the public sense of respect for law than if one who is not a legislator disobeyed it. But, for one who is a member of a legislative body, especially for one who is a member of our highest legislative body, in form, in substance, to be above the law, to encourage defiance of law as law when his word might stop it, because there is a higher law respecting the subject, reaches right down to the very roots of government.

Another observation of this preliminary character. If I felt that the facts of history justified me in so doing I would not say a word against the personal character nor even against the law-abiding spirit, as such things are ordinarily defined, of any member of the Mormon hierarchy or of Senator Smoot. I do not want to intimate, for it is purposeless, considering the view I take of these facts and of this case, that they are lawless, that they are mere breakers of the law. If that were all their case would be trivial. It would not make a ripple on the surface of government, because the land is full of law-breakers. Our jails are filled with them. It is because we may assume that these men are men of the highest character, with respect for law, as they define and interpret law, that this situation is serious and full of menace.

Why is it that these men do what they profess to do, what they admit they do, what they confess they do? They do it because they are not lawless, but because the law which they obey is not in those respects the law of the land, but a higher law. Senator Smoot in his heart of hearts believes that he is less lawless than any of us, because he does obey the law—that which he calls the law; and when the man-made law comes in conflict with that which he knows is higher, as Senator Smoot puts it, he will remove to an-

other country where that revelation will not conflict with the laws made by man. That strikes to the very heart of this whole controversy.

So I am ready to admit, and not at all for the mere purposes of argument, but because it is in the main a fact, that these strong men are not violating the law from any spirit of lawlessness, for with that you could deal easily, quickly, but because they are, in their view, law-abiding citizens, putting their own definition upon the source of law.

Now, perhaps I ought to answer an inquiry that may be in the minds of Senators as to what my view is of the power and duty of the Senate upon the assumption that our claim of facts is sustained. Ordinarily, perhaps, that discussion would follow an elaboration of the testimony affecting these various questions, but the argument is likely to be a little prolonged, and I would rather discuss this question briefly at the outset.

I do not need to say to this committee that the power of the Senate on any subject within its general scope is exceedingly broad. There is no limitation upon its power except that which the Constitution imposes, and the Constitution imposes very few limitations. It imposes absolutely no conditions upon the power of the Senate respecting the matter of the elections, returns, and the qualifications of its members. It is the sole judge of all questions which, within the Senatorial mind, may be encompassed within that inquiry. It does limit the power of expulsion by requiring that two-thirds of the members shall concur in such a motion. The constitutional provision giving the power to expel is very peculiar, and has given rise to much discussion since the institution of the Government. I myself have very decided convictions upon the meaning of that provision, and I do not think there ought to be any great difficulty in construing it. The language is:

"Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member."

Now, if we construe that according to the ordinary rules which apply to the construction of the English language, we of course take it all together. The context relates to the words "with the concurrence of two-thirds expel a member;" and I have always assumed that the power to expel referred to that conduct which the Senate could carry on respecting a member who had a right to be there, whose title there was unquestioned, and for something that he did, or for some status in which he was while a Senator. I think that is the only sound construction of that clause in the Constitution. It has never had another construction, in fact, by the acts of the Senate.

No Senator has ever been expelled, no member of the House has ever been expelled, except for some act done by him while a Senator or Representative, or relative to his functions as a Senator or Representative; and I think no serious effort was ever made to expel for any other reason than that.

In the present case the power of expulsion could be invoked, because the claim is made that the status of Senator Smoot, his relation to this law-defying hierarchy, his own attitude toward law, the view that he takes of his capacity to receive revelations from Almighty God, all indicate a present status that if necessary brings it within

the power of the Senate to expel. But if what I have said concerning Senator Smoot be true, that status and that state of mind—that personal relation that he must sustain, if he understands himself, to law and respect for law—of course preceded his entrance into the Senate and is a part of his constitutional, temperamental make-up.

The broad power of the Senate is that it is the judge of the elections, returns, and qualifications of its own members. We have heard a good deal of talk about the Constitution making three qualifications for membership in either House; that one must be an inhabitant of the district from which he is elected; that he must be a citizen of the United States, and must be of a certain age. That is true. Those three things must exist.

Beyond that legislation is vain. Congress can add no qualifications, can take none away, for one Congress can not limit the power of another Congress. The Constitution has done the limiting. But that is very far from denying that under the constitutional power of each House to be the judge of the elections, returns, and qualifications of its members, either House may not upon proper occasion define and declare ineligibility or disqualification in one who seeks to enter the body, or who, having entered it, is charged with want of eligibility or qualification. That occurs constantly in the House, where elections are contested for various reasons, sometimes for invalidity in the election itself; sometimes for want of qualification in the elected himself. But always the question is answered by the House to which it is put, controlled only by the general provision of the Constitution that makes it the judge.

Suppose it were true that Senator Smoot was a polygamist? If a polygamist, he would have no other relation to his seat—he could not be looked upon by the Senate in any other light—than as a lawbreaker or as a defier of law. So, continuing the use of that expression, if Senator Smoot were in law to be defined as a lawbreaker, or a defier of law, what would be the duty of the Senate? What would he be? Would he be merely the subject of expulsion, assuming this defiance to have continued, to have commenced back of his election, back of his entrance into the Senate, the condition that exists now being a condition that antedated his entrance here? The acts that he thus committed, the status that he thus sustained toward law, would, according to my view of it, render him ineligible to become a member of the legislative body. I do not think that any man who came marching down the aisle of the Senate to be sworn in, proclaiming himself a lawbreaker, if that were possible, would have the right to be sworn in, or, being sworn in, could not be ejected by a majority vote. The Senate would be the judge of the qualifications of its members and it would say then, as the House has said in more cases than one, and which neither body has ever declared that it had not the right to say, that the time to settle that question was when he thus presented himself.

SENATOR BEVERIDGE. You asked for interruptions from members of the committee?

MR. TAYLER. Yes.

SENATOR BEVERIDGE. Do I understand your contention at this point to be—and I imagine it is very important—that if Senator Smoot is not legally a member of the Senate, then a majority of the Senate

may determine. If he is legally a member of the Senate, then all questions affecting his expulsion would require two-thirds. Is that the contention?

Mr. TAYLER. No, not exactly, Senator. When one is sworn in, no matter what may be the infirmity in his title as later developed by testimony, he has his seat. He is a Senator.

Senator BEVERIDGE. He is a member?

Mr. TAYLER. He is a member; but the same cause that would justify his exclusion if all the facts were known and the Senate in full knowledge of its power had acted before he took his seat will suffice to exclude him or declare his seat vacant by a majority vote after he has taken his seat.

Senator BEVERIDGE. In other words, if these facts had been known at the time and the contest had been raised before he took the oath, it is conceded that under such circumstances a majority would have been competent to act. Now, if those facts are developed later on, do you contend that although he is a member technically, nevertheless a majority still is competent to act?

Mr. TAYLER. Undoubtedly. The House does it every session. Suppose it should appear to-day that Senator Smoot was not a citizen of the United States, his seat could be declared vacant by a majority vote. Expulsion would not be the method.

Senator BEVERIDGE. That notwithstanding the fact that he is technically a member—

Mr. TAYLER. Actually a member.

Senator BEVERIDGE. Let me state my question.

Mr. TAYLER. Yes.

Senator BEVERIDGE. The two-thirds rule does not operate. Is that your contention?

Mr. TAYLER. Undoubtedly.

Senator BAILEY. Permit me to interrupt you here. The qualifications which the two Houses are authorized to judge of are the qualifications laid down in the Constitution. In other words, the Constitution provides that "no person shall be a Senator who shall not have attained to the age of 30 years and been nine years a citizen of the United States, and who shall not when elected be an inhabitant of that State for which he shall be chosen." As I have always understood it, that provision fixes the qualifications of a Senator, and it is not competent either to add to these qualifications or to subtract from them, and that when the two Houses are authorized to judge of the elections, returns, and qualifications of their members, it has reference to the questions of age, citizenship, and residence within the State.

Mr. TAYLER. No. If there is any subject upon which I have a decided conviction it is on that—that the constitutional provision does not confine the inquiry of either House to the question as to whether the member is qualified in the three respects which the Senator from Texas has suggested.

Senator BEVERIDGE. Then why did the Constitution enumerate those? If the Constitution leaves it open for either House to determine something in addition to those, why did it enumerate these at all? Why did it not leave it all open?

Mr. TAYLER. That is a long argument. But, for instance, the Constitution does have other qualifications. Although it proceeds to set

out in the first section that Representatives and Senators shall have attained a certain age, and have qualifications with respect to citizenship and inhabitance, yet the Constitution in other places shows that those three were not intended to be the only qualifications required. For instance, it says that no test oath shall be required. Why should the Constitution have such a provision in it if it had already exhausted the subject?

Senator BEVERIDGE. If the Constitution leaves it open with reference to other qualifications than those enumerated, and which have been read, why did it not leave it open with reference to all the qualifications if it meant that either House might enlarge upon the qualifications which have just been read?

Mr. TAYLER. My answer in the first place is that it did not do that. It goes on to say in another part of the Constitution that some other certain things shall not be required to qualify a person to become a member of either House.

Senator BEVERIDGE. Adding those things specifically enumerated elsewhere in the Constitution to these, the question still is, Why, if the Constitution enumerates some things and meant to leave other things open to the sense of the Senate, it should have enumerated any?

Mr. TAYLER. I think I have answered it by saying—

Senator BEVERIDGE. All right.

Mr. TAYLER. It proceeds to enumerate the three different qualifications upon which it is said we ought to base our argument, and we find that twice thereafter, once with respect to holding other offices and once with respect to taking an oath, it did not do so.

I do not think the Constitution is to be construed as though men wanted the Senate of the United States or the House to be bound in some Procrustean bed that would not permit it to live. Is it not an institutional question that the body should have some control over the subject of its membership?

Senator BEVERIDGE. It may be.

Mr. TAYLER. Suppose that a maniac walked down the aisle to be sworn in. Suppose he was there. Suppose it was not a case of expulsion at all. Suppose that he was a traitor, known to be a traitor, with respect to whom it had been determined within the constitutional method that he was guilty of treason. Is it to be said that, although he possessed every constitutional qualification, nevertheless he is not disqualified to be a member of the Senate?

Senator BAILEY. You do not mean to say that the Senate could not protect itself in a case of that kind without raising the question of qualification, as we understand it in the Constitution?

Mr. TAYLER. I do not know how it could.

Senator BAILEY. It could expel him provided it could obtain the two-thirds.

Mr. TAYLER. Of course it could. But why should it require two-thirds of the Senate to keep out a maniac or a traitor?

Senator BAILEY. And it could expel him as being unfit for or incapable of performing the duties of his office. But I will ask you this question: Do you think that Congress could provide that hereafter no person shall be chosen a Senator who had ever been convicted or who had ever been accused of any crime?

MR. TAYLER. No. Congress is absolutely without power—

Senator BAILEY. It, then, could not by statute add to those qualifications?

MR. TAYLER. Not at all.

Senator BAILEY. But it can by a vote—

MR. TAYLER. Of course not Congress, if the Senator please, but the House into which the member comes; each House, but not Congress.

Senator BAILEY. You think it would be competent for one House to establish with respect to its members a rule of exclusion that the two Houses could not establish by law?

MR. TAYLER. Undoubtedly, because when the Senate, for instance, establishes a qualification for its members it establishes it for that Congress alone—that is to say, for that session, for that Senate.

Senator BAILEY. Is it not compelled to establish those qualifications under the constitutional provision under the protection of which every man comes to the House or the Senate?

MR. TAYLER. Undoubtedly.

Senator BEVERIDGE. Narrowing the question from Congress to either House, it is competent for the Senate to make rules, which it does respecting many things. Is it competent for the Senate to pass a rule for its own government and guidance that no man who has ever been accused of any crime shall be permitted to take the oath?

MR. TAYLER. The Senate whose term expires on the 4th of March has no more power to control the action of the Senate that begins on the 4th of March than I have—not a particle more.

Senator BEVERIDGE. The Senate is a continuing body.

MR. TAYLER. I understand it is a continuing body.

Senator BEVERIDGE. It is not like the House.

MR. TAYLER. But the next Senate can undo that.

Senator BEVERIDGE. There is no next Senate. The Senate is a continuing body.

MR. TAYLER. I understand that.

Senator BEVERIDGE. To narrow the question put to you, do you think it is competent for the Senate to establish such a rule, and that it would be effective while it lasts?

MR. TAYLER. Undoubtedly, because when that rule was not overthrown by the succeeding Senate it would continue by implication to be its rule. But the Senate can not make a rule to-day which it can not undo to-morrow. It can not make a rule now which it can not undo at 1 o'clock on the 4th of March. It is not law. Of course the two Houses can not pass laws laying qualifications, because the two Houses have no power at all over the constitution of the membership of succeeding Congresses, except as to the number. But each House is in control of the subject of its own members.

Senator PETTUS. Mr. Chairman, I most respectfully ask that this argument may be allowed to be made by counsel. We can get no benefit if it is to be a debate between the members of the committee and the counsel on the floor. There are places where counsel are not allowed to make their arguments to the court, but must make it with the court. Whenever counsel gets in that fix he is in a bad situation.

Senator BAILEY. It may be that some members of the committee are entirely satisfied without having their minds enlightened. I do not happen to be one of that kind.

I really am trying to ascertain just how far we can go, and my opinion was not that of the counsel, and I thought if the counsel could convince me that on the question of qualifications we could proceed outside of the Constitution, it might make a difference in my opinion.

But I will conform to the wishes of my senior, with this statement, that when counsel replied to me that the Constitution treated these as not the only qualifications and then provided that no test oath should ever be required, Mr. Tayler will, of course, recognize that that did not apply merely to Members or Senators. It applied to everybody, and therefore could not have been incorporated in the provision with respect to Senators. It declares, toward the end of the Constitution, that—

“The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution, but no religious test shall ever be required as a qualification to any office or public trust under the United States.”

It looks like that did not exactly make a qualification, but excluded a disqualification.

The CHAIRMAN. The chair will state that Mr. Tayler at the outset—possibly the Senator from Alabama was not then here—invited interruptions upon any point where members of the committee might desire further explanation: and the chair thinks interruptions were entirely in order. Of course, if they were continued, they might consume the entire hour. But with that the committee has nothing to do; and it certainly will serve to enlighten the committee upon these points about which there may be an honest difference of opinion.

Senator BEVERIDGE. I should like to state, if I may, before Mr. Tayler proceeds, that Mr. Tayler asked the members of the committee specifically to ask any questions, and said he did so because he thought it would tend to clarify the case and save time. I think, so far as I am concerned, I shall have no other questions to ask Mr. Tayler.

Mr. TAYLER. Of course it has given me pleasure to be interrupted. There is no subject that I should like to talk on more than the one about which I have just been inquired of, because there is not any subject on which I have talked as much as I have on it.

Senator BAILEY. I remember that question was up when we were both members of the House.

Mr. TAYLER. Yes, sir.

Senator BAILEY. I did not agree with you then.

Mr. TAYLER. I recall the fact.

Senator BAILEY. And I voted the other way.

Mr. TAYLER. I was not surprised at the question of the Senator from Texas, for I knew that he did not agree with me at that time.

I may, perhaps, ask the indulgence of the committee, in view of these questions, that I may, in my argument as printed, elaborate this question by making some extracts from a very full discussion of it, which is in the argument that I made in the Roberts case. Perhaps, historically, it would be better that it be inserted. I had no thought of making an elaborate argument on that proposition,

because this committee is a committee of lawyers, and I merely want to indicate what my claims are.

I shall have something more to say in a moment on the subject of expulsion and exclusion, but I desire to observe now that according to my view, in consequence of Senator Smoot's continued status, he may be either excluded by a majority vote, because of his status when admitted, or because he is now ineligible, or he may be expelled for the reasons hereafter stated. I refer to the subject of expulsion for the purpose of denying that merely because a person has been sworn in as a Senator he must therefore be expelled by a two-thirds vote if his seat is to be vacated by the action of the Senate.

The language of the constitutional provision, the history of its framing in the Constitutional Convention, and the context clearly show, whatever else may have been true, that it did not intend to prevent disqualification for crime or for defiance of the Constitution and the laws. The overwhelming authority of text-book writers on the Constitution and of judicial declarations on the subject harmonizes with this view.

In 1862 Congress passed the test-oath act, which in effect disqualified hundreds of thousands of American citizens, and thousands of Representatives in this body went to the bar of the House under a disqualification that was not removed until they took the test oath, an oath substantial in its character and superadded to the constitutional oath. And the House in 1869 adopted a general rule of order providing that no person should be sworn in as a member against whom the objection was made that he was not entitled to take the test oath.

On the proposition of expulsion I present these general observations: That the ablest lawyers from the beginning of the Government have insisted that neither the House of Representatives nor the Senate has the right to expel a man unless the thing for which he was expelled occurred in connection with his election or while he was a member, and was inconsistent with his trust or duty as a member.

I lay that proposition down as absolutely sound and as not contradicted anywhere; and both Houses of Congress have in many instances refused to expel members where the proof of guilt was absolutely clear, because the acts complained of were unrelated to the members as such, because the acts complained of were not inconsistent with the trust and duty of the member as such.

Neither House has ever expelled a member for any other cause. *So I say: To exclude is to be in harmony with principle and precedent; to expel is to do violence to principle and precedent. There is no precedent in the American Congress for expulsion under such circumstances as exist here.*

I want to distinguish between that qualification which is of the character of age, citizenship, and inhabitancy, such as property and education, and those disqualifications which arise out of the criminal or wrongful practices of an individual who willingly puts himself within the prohibited class.

Whatever general statements may have been made, no commentator on the Constitution, no court, and neither House of Congress has ever questioned the propriety of the distinction between disqualification arising from improper life or criminal practices and qualifications within the usual meaning of that word.

Burgess, in his work on Political Science and Constitutional Law, says:

"I think it certain that either House might reject an insane person or might exclude a grossly immoral person."

It was declared in the Kentucky cases, and in the Thomas case in the Senate, and in the test-oath act of 1862, that disloyalty created ineligibility; that fidelity to the Constitution was a necessary qualification to membership in this body. What is loyalty? It is faithfulness to the sovereign or the lawful government. A mere violator of the law may not necessarily be disloyal. One may violate the law and still recognize the sovereign and the lawfulness of the government. His only concern may be that he shall not be found out and punished.

What was the case of Whittemore, who was excluded, as hereafter set out? He had not been convicted of any crime, but a committee had found that he had sold a cadetship. He did not pretend that he was wiser or greater than the people, or that he had the right to sell cadetships and was above the law. The acts of Senator Smoot and his associates deny the sovereign; they repudiate the lawful government. Look at them from whatever point you will, they are subversive of government. They do not merely breed anarchy, they are anarchy.

Now, what are the duty and the power of the Senate? The Constitution has a provision declaring the qualifications for Senators in Congress. I assert that that is not exclusive in so far as it prevents the Senate from asserting any ground of disqualification which goes to the vitality of that body as such, or which in the common judgment of mankind ought always to exclude from the legislative body a person who is thus charged.

Three methods present themselves by which to test the soundness of this view:

First. On principle, and this involves—

(1) The nature of the legislative assembly, and the power necessarily arising therefrom.

(2) The express language of the constitutional provision.

(3) The reasons for that language.

(4) Its context and its relation to other parts of the instrument.

(5) The obvious construction of other portions of the same instrument necessarily subject to the same rule of construction.

Second. The text-books and the judicial authorities.

Third. Congressional precedents. Action respecting the rights of individual members.

As to the first proposition, what is the argument on principle? I think it will be undoubted that every legislative body has unlimited control over its own methods of organization and the qualifications or disqualifications of its members, except as specifically limited by the organic law. I do not think that this proposition needs amplifying; it is axiomatic. It is apparent that every deliberative and legislative body must have supreme control over its own membership except in so far as it may be specifically limited by a higher law.

When our Constitution was framed there was practically no limit to the right and power, in these respects, of the English Parliament. Such power is necessary to the preservation of the body itself and to the dignity of its character. In England it was at one time admis-

sible to permit the admission into the House of Commons of minors, of aliens, and of persons not inhabitants of the political subdivision in which they were elected. To this day it is well known that an inhabitant of London may be elected by a Scotch constituency, and a member has been elected by more than one constituency to the same Parliament.

The framers of the Constitution, familiar with these facts, proposed to prevent their happening in this country. They knew also that a similar latitude of choice had been exercised in the original colonies and in the States of the Federation, and it was proposed to put a stop to it so far as Congress was concerned. A very luminous argument was made on this subject by John Randolph in the House of Representatives in 1807.

I quote as follows from his remarks:

"If the Constitution had meant (as was contended) to have settled the qualifications of members, its words would have naturally run thus: 'Every person who has attained the age of 25 years and been seven years a citizen of the United States, and who shall, when elected, be an inhabitant of the State from which he shall be chosen, shall be eligible to a seat in the House of Representatives.' But so far from fixing the qualifications of members of that House, the Constitution merely enumerated a few disqualifications within which the States were left to act.

"It is said to the States: 'You have been in the habit of electing young men barely of age; you shall send us none but such as are five and twenty. Some of you have elected persons just naturalized; you shall not elect any to this House who have not been some seven years citizens of the United States. Sometimes mere sojourners and transient persons have been clothed with legislative authority. You shall elect none whom your laws do not consider as inhabitants.'"

In pursuance of the idea in the mind of the framers of the Constitution we have the peculiar words, "No person shall be a Representative who shall not have attained," etc. How happy, indeed, are these words if we give them precisely the force and meaning for which we contend. How unhappy and how misleading, how impossible, in fact, to the masters of the English language who wrote them if they were intended to exclude all other possible requirements or disqualifications. We might admit such construction if suitable language was difficult to find or frame: but note how easily such a purpose could have been served in fewer words and with unmistakable meaning—thus: "Any person," or "a person," or "every person may be a Representative who shall have attained the age of 25 years," etc.

The provision seems to be worded designedly in the negative, so as to prevent the suspicion that it was intended to be exclusive, and so as to prevent the application of the rule, "the expression of one thing is the exclusion of another." The immediately preceding clause is affirmative, and says: "The electors in each State shall have the qualifications," etc. With some show of propriety it can be claimed that this provision is exclusive. It at least does not have the negative form to condemn such construction.

Story says (Constitution, sec. 448):

"The truth is that in order to ascertain how far an affirmative or negative proposition excludes or implies others we must look to the

- nature of the provision, the subject-matter, the objects, and the scope of the instrument. These, and these only, can properly determine the rule of construction. There can be no doubt that an affirmative grant of powers in many cases will imply an exclusion of all others."

It is a notable fact that in the first draft of this constitutional provision which provides for qualifications of Representatives in Congress the language was affirmative and positive, and that when it was finally presented for adoption it appeared in the form in which we now find it.

The slight contemporaneous discussion in the Constitutional Convention was upon the provision in the affirmative form. Why was it changed to the negative? Surely not for the sake of euphony, and certainly not to make it more explicitly exclusive.

In the report of the committee of detail, submitting the first draft of the Constitution, this section read in the affirmative and as follows:

- "Every member of the House of Representatives shall be of the age of 25 years at least; shall have been a citizen of the United States for at least three years before his election, and shall be at the time of his election a resident of the State in which he shall be chosen."

In the discussion Mr. Dickinson opposed the section altogether, expressly because it would be held exclusive, saying he "was against any recitals of qualifications in the Constitution. It was impossible to make a complete one, and a partial one would, by implication, tie up the hands of the legislature from supplying omissions."

Mr. Wilson took the same view, saying:

"Besides, a partial enumeration of cases will disable the legislature from disqualifying odious and dangerous characters."

The next day after this discussion, and when the clause respecting age, etc., had, in its general sense, been informally approved, a proposed section respecting a property qualification was discussed. Mr. Wilson said (*Madison Papers*, vol. 5, p. 404) that he thought "it would be best, on the whole, to let the section go out; this particular power would constructively exclude every other power of regulating qualifications." What did Mr. Wilson mean if the result of the discussion in which he participated on the preceding day was to "constructively exclude every other power of regulating qualifications?"

In view of the objections urged by Dickinson and Wilson and their opinions as to the construction that would result and the consequences thereof, the conclusion seems reasonable, if not absolutely irresistible, that the change from the affirmative to the negative form was intentionally made, and with the very purpose of obviating such objections, and hence that in being negatively stated it was considered by the Convention that the particular qualifications mentioned would not be exclusive and would not render impossible the "disqualifying odious and dangerous characters" and would not prevent "supplying omissions."

This section was finally reported and adopted in the negative form in which it now appears. The report of the committee seems to have been elaborately discussed.

Look, now, at the last paragraph of Article VI of the Constitution:

"The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judi-

cial officers, both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution."

Here is an affirmative declaration that a certain oath shall be administered to certain officials. If the theory of exclusion is applied to the qualification clause as to Representatives, it must be applied to this clause, and therefore Congress has no power to demand any other oath or superadd to this oath any other provisions.

And yet the very oath you took as members of the Senate has additional provisions. Congress passed also the test-oath act in 1862, making vital additions to the constitutional oath, and, indeed, adding a new ground of disqualification for members of Congress. This act was passed by a large majority, and compelled members of Congress to submit to that oath for many years. Chief Justice Marshall, the great expounder of the Constitution, in the case of *McCulloch v. Maryland*, declared that "He would be charged with insanity who should contend that the Legislature might not superadd to the oath directed by the Constitution such other oath or oaths as its wisdom might suggest," and the whole opinion in that case is addressed in principle to the very doctrine that is here advocated.

If Congress could add to the constitutional oath, the same theory of construction must permit it to add reasonable qualifications to the requirements for members of the legislative body, at least to the extent of declaring disqualifications which in their nature ought to bar a man from entrance into a great legislative body.

The same clause to which I have just referred has this provision:

"But no religious test shall ever be required as a qualification to any office or public trust under the United States."

If the Constitution had laid down all the qualifications which Congress or any other power had the right to impose it was unnecessary to go on and declare that no religious test should be required. That great instrument is inconsistent in its parts and contradictory of itself if it be true that it meant that no disqualifications should be provided except those named. Nor was it necessary, if the proviso means an oath merely, that such exception should be made, for the preceding words of the paragraph set out the required oath.

The effort to make the negative declaration of minimum qualifications exclusive of all others, whatever the necessities of the House may be, falls to the ground if we admit that the paragraph representing oaths is in the same instrument as that which defines the qualifications of members of Congress.

Let me now proceed with what I have called the text-book and judicial authority.

In Pomeroy's *Constitutional Law*, third edition, page 138, is the following:

"The power given to the Senate and to the House of Representatives each to pass upon the validity of the elections of its own members, and upon their personal qualifications, seems to be unbounded. But I am very strongly of the opinion that the two Houses together, as one House, can not pass any statute containing a general rule by which the qualifications of members as described in the Constitution are either added to or lessened.

"Such a statute would not seem to be a judgment of each House upon the qualifications of its own members, but a judgment upon the qualifications of the members of the other branch. The power is suffi-

ciently broad as it stands. Indeed, there is absolutely no restraint upon its exercise except the responsibility of the Representatives to their constituents. Under it the House inquires into the validity of the elections, going behind the certificates of the election officers, examining the witnesses, and deciding whether the sitting member or the contestant received a majority of legal votes. The House has also applied the test of personal loyalty to those claiming to be duly elected Representatives, deeming this one of the qualifications of which it might judge."

Pomeroy is discussing the power of the House, not stating what somebody may have said.

Troop on Public Offices, section 73, says:

"The general rule is that the legislature has full power to prescribe qualifications for holding office in addition to those prescribed by the Constitution, if any, provided that they are reasonable and not opposed to the constitutional provisions or to the spirit of the Constitution."

Who shall say that the exclusion of Senator Smoot on the grounds proved is "opposed to the spirit of the Constitution?"

Cushing (Law and Practice of Legislative Assemblies, p. 195, sec. 477) says:

"To the disqualifications of this kind may be added those which may result from the commission of some crime which would render the member ineligible."

What have the courts said on similar propositions? We first have the case of *Barker v. The People* (3 Cowen) [New York]. In that case it was held that every person not specifically disqualified by the Constitution was eligible to election or appointment to office. In so far as that particular statement goes, it is a denial of the broad right to superadd to the constitutional provision as to qualifications. But that statement, as applied to this case, loses all of its applicability, for two reasons:

(1) Because it was not the question that it had to decide.

(2) Because the judge distinctly and positively declares—and that was the point involved in the case—that notwithstanding that want of power in the legislature to add to the Constitution qualifications, it did have the right to disqualify for crime. He proceeds to say that it might disqualify for crime upon conviction thereof. I apprehend that that is unimportant here, for if the Senate has a right to disqualify for crime it has the power and the right to determine for itself whether the crime was committed, and not to depend upon a judicial conviction. The necessity for a judicial conviction is the more apparent where the person who seeks to take office undertakes to assume an executive office to which he has been elected or appointed, for there may not be any other than the ordinarily constituted court in which to try the question of his guilt of the offense that created his ineligibility.

The next case to which I call attention is *Rogers v. Buffalo* (123 New York). I quote from page 184:

"The case of *Barker v. The People* (3 Cowen, 686) has been cited by counsel. That case holds the act to suppress dueling, which provided as a punishment for sending a challenge that the person so sending should, on conviction, be disqualified from holding any public office, was constitutional.

"The chancellor, in the course of his opinion, said he thought it entirely clear that the legislature could not establish arbitrary exclusions from office, or any general regulation requiring qualifications which the Constitution had not required. What he meant by such expression is rendered clear by the example he gives. Legislation would be an infringement upon the Constitution, he thought, which should enact that all physicians, or all persons of a particular religious sect, should be ineligible to hold office, or that all persons not possessing a certain amount of property should be excluded, or that a member of assembly must be a freeholder, or any such regulation.

"But, in our judgment, legislation which creates a board of commissioners consisting of two or more persons and which provides that not more than a certain proportion of the whole number of commissioners shall be taken from one party does not amount to an arbitrary exclusion from office, nor to a general regulation requiring qualifications not mentioned in the Constitution. The 'qualifications' which were in the mind of the learned chancellor were obviously those which were, as he said, arbitrary, such as to exclude certain persons from eligibility under any circumstances. Thus a regulation excluding all physicians would be arbitrary. But would a regulation which created a board of health and provided that not more than one physician from any particular school, or none but a physician, should be appointed thereon be arbitrary or unconstitutional an illegal exclusion from office? I think not.

"The purpose of the statute must be looked at, and the practical results flowing from its enforcement. If it be obvious that its purpose is not to arbitrarily exclude any citizen of the State, but to provide that there shall be more than one party or interest represented, and if its provisions are apt for such purposes it would be difficult to say what constitutional provision is violated, or wherein its spirit is set at naught."

And again, on page 188:

"It is said that the legislature had no right to enact that a person who shall be appointed to a public office shall have the qualifications necessary to enable him to discharge the duties of such office, nor to provide that the fact that he does possess such qualifications shall be ascertained by a fair, open, and proper examination.

"Nothing but the bare oath mentioned in the Constitution can be asked of any applicant for an appointive office is the claim of the appellant. We do not think that the provision above cited was ever intended to have any such broad construction. Looking at it as a matter of common sense, we are quite sure that the framers of our organic law never intended to impose a constitutional barrier to the right of the people through their legislature to enact laws which should have for their sole object the possession of fit and proper qualifications for the performance of the duties of a public office on the part of him who desired to be appointed to such office. So long as the means to accomplish such end are appropriate therefor they must be within the legislative power.

"The idea can not be entertained for one moment that any intelligent people would ever consent to so bind themselves with constitutional restrictions on the power of their own representatives as to prevent the adoption of any means by which to secure, if possible, honest and intelligent service in office. No law involving any test

other than fitness and ability to discharge the duties of the office could be legally enacted under cover of a purpose to ascertain or prescribe such fitness. Statutes looking only to the purpose of ascertaining whether candidates for an appointive office are possessed of those qualifications which are necessary for a fit and intelligent discharge of the duties pertaining to such office are not dangerous in their nature, and in their execution they are not liable to abuse in any manner involving the liberties of the people."

And again, on page 190:

"In this case we simply hold that the imposing of a test by means of which to secure the qualifications of a candidate for an appointive office, of a nature to enable him to properly and intelligently perform the duties of such office, violates no provision of our Constitution."

This opinion was delivered by Justice Peckham, now a member of the Supreme Court of the United States.

Another instructive case is that of *Ohio ex rel. Attorney-General v. Covington*. (29 Ohio State, p. 102.) The opinion is by Judge McIlvaine, one of the ablest and most careful judges that ever sat in the supreme court of Ohio. He says:

"The last objection made to the validity of this act is based on section 4 of article 15 of the constitution, which declares: 'No person shall be elected or appointed to any office in this State unless he possesses the qualifications of an elector.'

"The question arises under the fourth section of the act (which the court is construing), which provides: 'Each member and officer of the police force shall be a citizen of the United States, and a resident citizen for three years of the city in which he shall be appointed, and able to read and write the English language.'

"There is no claim made that the qualifications prescribed in the act, in view of the nature of the duties to be performed, are unreasonable, or even unnecessary, to the discharge of the duties. The point made is that disqualifications are imposed by the statute which are not imposed by the constitution.

"It is apparent that this statute is not in conflict with the terms of this constitutional provision. It does not authorize the appointment of a person who is not an elector. The express provision of the constitution is that a person not an elector shall not be elected or appointed to any office in this State. Now, unless the clear implication is that every person who has the qualifications of an elector shall be eligible to any office in this State there is no conflict between the statute and the constitution. I do not believe that such implication arises.

"There are many offices the duties of which absolutely require the ability of reading and writing the English language. There are many electors who, from habit of life or otherwise, are wholly unfit to discharge the duties of many offices within this State. If the framers of the constitution had intended to take away from the legislature the power to name disqualifications for office other than the one named in the constitution, it would not have been left to the very doubtful implication which is claimed from the provision under consideration. The power under the general grant being ample and certain, a statute should not be declared void because in conflict with an alleged implication, unless such implication be clear and indubitable."

We find the same doctrine in the case of *Darrow v. The People*. (8 Colo., p. 417.) The syllabus relating to this question is as follows:

"The statute designating the payment of taxes as a necessary qualification of membership in the board of aldermen is not in conflict with section 6, article 7, of the constitution."

The provision of that section is as follows:

"No person except a qualified elector shall be elected or appointed to any civil or military office in the State."

The court says, on page 420, that it is argued that this provision "by implication inhibits the legislature from adding the property qualification under consideration. There is nothing in the constitution which expressly designates the qualifications of councilmen in a city or town, and this section contains the only language that can possibly be construed as applicable thereto. But it will be observed that the language used is negative in form—that it simply prohibits the election or appointment to office of one not a qualified elector. There is no conflict between it and the statute. By providing that a supervisor or an alderman shall be a taxpayer the legislature does not declare that he need not be an elector. Nor is the provision at all unreasonable. On the contrary, it is a safeguard of the highest importance to property owners within the corporation.

"The right to vote and the right to hold office must not be confused. Citizenship and the requisite sex, age, and residence constitute the individual a legal voter; but other qualifications are absolutely essential to the efficient performance of the duties connected with almost every office. And certainly no doubtful implication should be favored for the purpose of denying the right to demand such additional qualifications as the nature of the particular office may reasonably require. We do not believe that the framers of the constitution by this provision intended to say that the right to vote should be the sole and exclusive test of eligibility to all civil offices, except as otherwise provided in the instrument itself; that no additional qualifications should ever be demanded and no other qualifications should be imposed."

LEGISLATIVE PRECEDENTS.

I proceed now to the legislative precedents upon this matter of exclusion.

JEREMIAH LARNED.

One Jeremiah Larned, as long ago as 1785, was elected to the legislature of Massachusetts, but it turned out that he had violated a law that that legislature had passed. And what was it? On election day he headed a riot for the purpose of preventing the collection of taxes. What did the fathers of that day do? They were not men who were regardless of human rights; they held that inasmuch as Larned had violated the law he was unworthy to take a seat upon that floor, and they kept him out.

JOHN M. NILES.

In the first session of the Twenty-eighth Congress, on the 30th of April, 1844, the credentials of John M. Niles as a Senator from Connecticut were presented to the Senate and objection was made to the oath being administered. Mr. Jarnagin submitted a resolution refer-

ring the credentials of Mr. Niles to a select committee, which was instructed—

“To inquire into the election, return, and qualifications of the said John M. Niles, and into his capacity at this time to take the oath prescribed by the Constitution of the United States.”

Mr. Jarnagin himself made a speech at that time, in which he took the view that it was a question of eligibility that was raised, and that a man who was insane was ineligible, and of course incapable of taking the oath. There was some discussion about it, and some doubt raised, and Mr. Niles's colleague said he had no objection to the matter going to the committee.

On May 16 following the committee reported in favor of permitting Mr. Niles to take the oath, which was then administered. It appears from the report that Mr. Niles had been suffering from severe bodily afflictions, which impaired his mind to such an extent that he was removed to the insane asylum at Utica, N. Y., where he remained until April 1, 1844, after which he was discharged as improved, but not completely restored to health. The committee reported that while Mr. Niles was laboring under mental and physical disability he was not of unsound mind in the technical sense of that phrase.

If this case establishes anything, it establishes the right of the Senate to protect itself against a person of infirm or unsound mind; that it recognized that it had the right to exclude a person possessed of every qualification which the Constitution required if he was not of sound mind.

PHILIP F. THOMAS.

Another case in the Senate was that of Philip F. Thomas, of Maryland, in the Fortieth Congress. His credentials were presented on March 18, 1867, and the following day were referred to the Judiciary Committee. There was a very elaborate debate.

The charge against him was that he had been disloyal, and that he was therefore incapable of taking the test oath which was provided for in the act of July, 1862.

The resolution which was then adopted, and under the provisions of which Thomas was excluded from the United States Senate, was as follows:

“*Resolved*, That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland, or to hold a seat in this body as such Senator, and that the President pro tempore of the Senate inform the governor of the State of Maryland of the action of the Senate in the premises.”

The vote for exclusion was 27 to 20. Among those voting in the negative was Lyman Trumbull. He did so because he thought the proof of disloyalty was unsatisfactory.

His position on the question involved had, however, been clearly and unmistakably defined in the case of

BENJAMIN STARK.

who was appointed a Senator from Oregon early in 1862.

There were ex parte affidavits as to Stark's disloyalty. He was not permitted at first to take the oath, and his case went to a committee, which reported in favor of letting Stark be sworn in, but without

passing at all on the facts. The discussion of the case, however, showed that it would be impossible to take proof before the legislature of Oregon elected his successor. The state of the proof was so unsatisfactory also that on the resolution to expel Stark not even a majority voted in the affirmative. On the preliminary question Mr. Trumbull, February 7, 1862, made an able and conclusive report. He said:

"That an avowed traitor, a convicted felon, or a person known to be disloyal to the Government has a constitutional right to be admitted into the body would imply that the Senate had no power of protecting itself—a power which, from the nature of things, must be inherent in every legislative body. Suppose a member sent to the Senate, before being sworn, were to disturb the body and by violence interrupt its proceedings, would the Senate be compelled to allow such a person to be sworn as a member of the body before it could cast him out? Surely not, unless the Senate is unable to protect itself and preserve its own order. The Constitution declares that each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member."

"The connection of the sentence in which the power of expulsion is given would indicate that it was intended to be exercised for some act done as a member, and not for some cause existing before the member was elected or took his seat. For any crime or infamous act done before that time the appropriate remedy would seem to be to refuse to allow him to qualify, which, in the judgment of the undersigned, the Senate may properly do, not by way of adding to the qualifications imposed by the Constitution, but as a punishment due to his crimes for the infamy of his character."

There is absolutely no doubt whatever that if the case of disloyalty had been stronger Stark would have been excluded. The weakness of the case in that respect is manifest when we remember that less than a majority voted to expel him.

KENTUCKY CASES.

On the 3d of July, 1867, the members-elect from the State of Kentucky presented their credentials to the House. They were not then permitted to be sworn in, on the ground that they had been disloyal or had expressed disloyal sentiments.

If there is any criticism to be lodged against the action of the House at that time, it is not that the theoretical ground upon which they based their action was untenable, but that they undertook to exercise the power to exclude a man for disloyalty years after he had been disloyal, as alleged, and after the time in which alone he could have been disloyal.

The Committee on Elections, which took jurisdiction of the case under the order of the House, made several reports, all of which were of the same general character and all of which were sustained by the House. The reports were carefully prepared and were most elaborately argued.

From the report filed by Mr. Dawes, as chairman, I quote as follows:

"The committee are of the opinion that no person who has been engaged in armed hostility to the Government of the United States,

or who has given aid and comfort to its enemies during the late rebellion, ought to be permitted to be sworn as a member of this House, and that any specific and apparently well-grounded charge of personal disloyalty made against a person claiming a seat as a member of this House ought to be investigated and reported upon before such person is permitted to take the seat."

A second report was filed, in which it is said:

"The committee adhere to the views expressed in the former report, that no man who has been engaged in an attempt to overthrow the Government and subvert the Constitution by force of arms, or who has voluntarily given aid, countenance, counsel, or encouragement to persons so engaged, ought to be admitted to a seat in this House to make laws for the nation he has traitorously sought to destroy; and it is apparent that there must be power in this House to prevent this, the House being the judge of the qualifications of its members, of which fidelity to the Constitution is one, and that this end can only be certainly accomplished by the investigating of any specific and apparently well-grounded charge of personal disloyalty made against a person claiming his seat as a member of this House before such person is permitted to take the seat.

"The House concurred in this view of the committee by adopting the resolution under which the committee is now acting. The principle upon which this preliminary investigation was ordered was adopted by Congress when the oath of office to be taken by members of this House was prescribed by law, and the preliminary investigation of specific and apparently well-founded charges against a person claiming a seat in this House is only an additional mode of attaining the same result sought to be secured by requiring the oath to be taken by all persons who become members of the House."

From time to time after the objection was made to the swearing in of other members-elect, the House assumed jurisdiction, tried the cases in advance of administering the oath, and where, as sometimes had been the case, it appeared that the claimant had not been disloyal he was of course sworn in; in other cases he was excluded.

As showing that the House in acting in the Kentucky and other cases in the Fortieth Congress was not precipitate and wanting in deliberation, I call attention to the resolution adopted by the House of Representatives on the 22d of March, 1869. This was four years after the war and nearly two years after the Kentucky cases arose, when it may fairly be said that a deliberate judgment had been reached respecting the right of Congress in a proper case to exclude a member-elect.

On the 22d of March, 1869, the following was adopted as the permanent rule of the House:

"*Resolved*, That in all contested-election cases in which it shall be charged by a party to the case, or a member of the House, that either claimant unable under the act approved July 2, 1862, entitled 'An act to prescribe the oath of office, and for other purposes,' it shall be the duty of the committee to ascertain whether such disability exist, and if such disability shall be found to exist the committee shall so report to the House and shall not further consider the subject without the further order of the House, and no compensation will be allowed by the House to any claimant who shall not have been

entitled at the time of the election, and whose disloyalty shall not have been removed by act of Congress."

This rule, it will be observed, is independent of the mere disqualification for disloyalty, but is intended to exhibit the matured determination of the House of Representatives to insist not only upon the oath required by the act of July 2, 1862, but also that the person claiming the right to take the oath should show his right to do so.

The test-oath act only required that he take the oath, but the House held that it had a right to inquire whether he had the capacity to take the oath, which was an exercise of an original power, not based upon any statute.

WHITTEMORE CASE.

Again, in the Forty-first Congress the House of Representatives asserted its right to exclude from membership a Representative-elect with a perfect certificate and possessing all of the so-called constitutional qualifications. This is the case of Whittemore, from South Carolina. It must be remembered that Whittemore was a Republican, and that he brought his certificate to a Republican House of Representatives. Previously, on the 24th day of February, 1870, he had resigned in order to avoid a vote on a resolution of expulsion which had been reported to the House.

It was charged against him that he had sold a cadetship, and that, therefore, he was unworthy to continue to be a member of the House. His resignation, however, prevented action upon the resolution of expulsion, and the House contented itself with the adoption of a resolution of censure. Whittemore returned to his constituency, a special election was ordered, and he was reelected and returned to the same session of Congress, with his certificate of election under the broad seal of the State of South Carolina. Objection was made by General Logan, and after some discussion the matter was postponed until June 21. General Logan made a powerful speech, in which he asserted the right to exclude a man guilty of an offense such as Whittemore had committed. In this debate he said, among other things:

"It is said that the constituency had the right to elect such a member as they may think proper. I say no. We can not say that he shall be of a certain politics, or of a certain religion, or anything of that kind; but, sir, we have the right to say that he shall not be a man of infamous character. He is not merely a representative of the constituents who elect him, but his vote in the House is a vote for the whole nation. It is a vote for the people of the whole country, and every district in the United States has the same interest in his vote that his own district has.

"Hence, if Congress shall not have the power or authority or shall not have the right to exclude a man of that kind, then the rights of the people of the whole country may be destroyed by a district sending a Representative who may be obtained to vote in a manner which may be destructive of the rights of the people. Are we to be told that Congress has no right to prevent anything of this kind because of the right of any constituency to send whomsoever they please?

* * * * *

"It is not that the people shall not be represented. Not at all. It is this: That the people of the country have no right to destroy their own liberties by filling Congress with men who, from their conduct, show themselves capable of the destruction of their Government.

* * * * *

"Congress, being the representatives of the whole people, are entitled to say that the rights of the whole country shall not be destroyed by one or more districts throwing in here a man, or set of men, capable of their destruction: and that, having knowledge of the facts, and the power to prevent the mischief by exercising the right of exclusion, they have a right to exercise that power, and thereby protect the interests of the country, and to preserve instead of destroy the right of representation.

* * * * *

"For crime, sir, we have a right to proscribe a man. That is the ground I put it on. That is the ground on which I put it first, and that is the ground on which I put it now. We have a right, I say, to protect the interests of the country by excluding men from these halls on the ground of crime. It is not a crime to be a Democrat or a Republican, to be a Presbyterian or a Methodist, or a member of any other denomination; but, sir, it is a crime for a man to do what this man has done. And why? Because the laws of our country denominate it a crime. It is made a crime by law. Hence my theory is based on the law, and is this, that in pursuance of the law and in carrying out its principles we must protect the country by protecting ourselves against crime and against criminals in this body. That is the ground I took and the theory I stated."

The principal ground of objection was to immediate action, and the claim was made that the case ought to be sent to a committee to determine Whittemore's right to be sworn in. Logan replied that the House was in possession of all the facts. He withdrew the demand for the previous question and the debate proceeded. Later on he said he supposed if there were not more than 17 or 18 who wanted to speak, of course it would not take much time, and that the House could vote down the previous question if it wanted more discussion. He said he did not care whether the House sustained the demand for the previous question or not. But the House seemed to be much more insistent than Logan, for the previous question was ordered, and the vote on the main question was 130 to 24. No doubt some of those who voted in the negative were opposed to exclusion.

But the most of them must have felt as did Mr. Farnsworth, who said:

"I do not know but that when this matter is properly investigated I shall also vote for excluding Mr. Whittemore from a seat, but I think it ought to be first investigated by a committee."

The resolution in this case provided for the return of his credentials to Whittemore and his exclusion from the House.

There are cases where the claim of ineligibility was made before the member was sworn in. Surely, if he had been sworn, and the same claim had been made thereafter, the method of disposing of

the member would have been by exclusion and not by expulsion and would have been decided by a majority vote.

Senator FORAKER. I wish to make a remark at this point, not to interrupt you or unduly take the time of the committee. I understand your proposition to be that notwithstanding the grounds of disqualification enumerated in the Constitution, if when a member has been elected and presents himself to be sworn in it be manifest that he is a maniac or a lunatic, he may be, on that ground, excluded?

Mr. TAYLER. Yes.

Senator FORAKER. For want of qualification?

Mr. TAYLER. For want of qualification or for a crime. My argument in the Roberts case cites a large number of constitutional authorities on that proposition.

Senator KNOX. In order to get your view absolutely I think there should be added to the question of Senator Foraker this: By what vote may he be excluded?

Mr. TAYLER. By a majority vote.

Senator BEVERIDGE. That is, in the case you have stated, when he presents himself?

Mr. TAYLER. Yes.

Senator BEVERIDGE. Suppose later on it should develop that he is a lunatic?

Mr. TAYLER. Of course, if we consider that for a moment the logical and inevitable conclusion from it is that that which may be done before one enters may be done after he comes in. That which justifies exclusion before getting rid of him afterwards.

Senator BEVERIDGE. By the same method?

Mr. TAYLER. By the same vote; by the same method.

Senator BEVERIDGE. My mind does not follow that.

Mr. TAYLER. Just as is done in the House.

Senator FORAKER. That is, his position would not be bettered any, your contention is, by having been given his seat?

Mr. TAYLER. Not at all. The question of right in him and of power in the Senate is precisely the same in either case. Of course if the thing complained of occurred after taking his seat then it would not be a case of exclusion, but of expulsion.

Another observation on that which I leave with the committee to work out in its own way is that which was made by Jeremiah Wilson, who was the counsel of the Mormon Church, and appeared for it in many of its cases. He made an especially full and able argument in one of the applications made by Utah for admission. This pamphlet is entitled "Admission of the State of Utah, 1889," and in connection with the hearing a large number of people bore testimony or made arguments, and among those who made arguments was Jeremiah M. Wilson. The subject of obedience to the constitutional provision that was to go in was up. This is not exactly that, but it is analogous to it. He then said—

The CHAIRMAN. May I call your attention to the case of Philip F. Thomas?

Mr. TAYLER. I have it here.

The CHAIRMAN. It is found on page 133 of the compilation of Senate cases. There a party was excluded because his son had taken up arms against the Government of the United States, and the party

seeking admission to the Senate had contributed \$100 in support of his son and in encouragement of his entering the rebellion. The Senate refused to admit him. You will come to that later?

Mr. TAYLER. I will refer to it right now. Philip Thomas had been elected to the Senate from Maryland, and there was a very elaborate debate in March, 1867. The charge made against him was that he was disloyal, and therefore incapable of taking the test oath which had been provided in the act of July, 1862. A resolution was then adopted and under the provisions of it he was excluded from the Senate because he had voluntarily given aid, countenance, and encouragement to persons engaged in rebellion. The vote on the question of his exclusion was 27 to 20. Among those voting in the negative was Lyman Trumbull, but he voted in the negative because he thought the proof of disloyalty was unsatisfactory.

The CHAIRMAN. The evidence in the cause of Thomas was that his son had entered the Confederate service, and his father had contributed \$100.

Mr. TAYLER. I do not attach so much importance to those cases growing out of the war as I do to those which came under circumstances when passion was less effective in dispelling reason.

Senator FORAKER. In the Thomas case he was denied his seat.

Mr. TAYLER. Yes; he was denied his seat.

Senator FORAKER. He was not allowed to take his seat?

Mr. TAYLER. He was not allowed to take his seat.

Senator BEVERIDGE. He was not expelled. He did not become a member.

Mr. TAYLER. My contention is that the Senate does not lose its rights because a man happens to get in whom it might have excluded for conditions existing prior to that time. If ineligibility or other cause that justified his exclusion existed, the same method and the reason would apply after he got in.

The CHAIRMAN. There was no question in the Thomas case that he was of a proper age, a citizen of the United States, and a resident of the State. He had all the enumerated constitutional qualifications.

Mr. TAYLER. In this argument which Mr. Wilson made before the committee, speaking about the compact, he said:

"If it may be made, then the right to enforce it follows by necessary implication. It is idle to say that such a compact may be made and that when the considerations have been mutually received, statehood on the one side and the pledge not to do a particular thing on the other, either party can violate it without remedy to the other.

"But you ask me, What is the remedy? And I answer that there are plenty of remedies, and peaceable remedies, and in your own hands.

"Suppose they violated this contract: suppose that after they put this into the constitution and thereby induced you to grant them the high privilege and political right of statehood, they should turn right around and exercise the bad faith which is attributed to them here, what could you do? You could shut the doors of the Senate and House of Representatives against them; you could deny them a voice in the councils of this nation, because they had acted in bad faith and violated their solemn agreement by which they succeeded in getting themselves into the condition of a State. You could deny

them the Federal judiciary; you could deny them the right to use the mails, that indispensable thing in the matter of trade and commerce of this country. There are many ways in which peaceably, but all-powerfully, you could compel the performance of that compact."

Senator DILLINGHAM. Does that relate to the State?

Mr. TAYLER. Of course that related to the State; but it occurs to me that Mr. Wilson had a good deal larger contract on hand when he undertook to solve the difficulty by dealing with it as a State than the Senate would have in dealing with an individual who was in effect chargeable with the same offense as we claim that in Mr. Wilson's case the State was charged with.

In the one case it would be simply the action of the Senate dealing with an individual as such, and as representing something. In the other case it would be dealing with the State, and I have yet to bring myself to the opinion that Congress has any power to undo or to qualify the sovereignty of a State after it has once been admitted and is exercising the sovereignty of statehood.

The argument that is made by Jeremiah Wilson, it seems to me, is pertinent to this very inquiry. He was an able lawyer, and had evidently with great care thought out this matter.

Now, gentleman, this is the broad claim we make: That the church is in fact higher than the law; that the hierarchy and its members are in fact higher than the law. I do not mean that they consciously realize that in every act that they perform they are above the law, or that they do not quite unconsciously generally obey the law, as most men obey it, but that after all when we get to the inner consciousness that controls them they are obedient to a higher law, and they are so because, as I indicated incidentally earlier in my argument, they or it receive revelations, because its membership, especially the hierarchy, are in immediate contact with God. I shall have more to say about that as we go along. This is basic. I should like that every word I say from now on should be considered in view of the fact and with constant apprehension of the fact that revelation runs through the Mormon mind and is the basis of the Mormon religion and of its hold on the Mormon people to-day—revelation by actual contact with the Almighty.

In that thought we discover the explanation of everything that has happened. The defiance of law, not because it was law—that is, the law of the land—not because it was the law of the land, but because there was a law of God that was higher than the law of the land; the constant defiance of the law of the land, from Independence, Mo., in 1836 to 1840, down to the present hour, all are due not to lawlessness, but to the fact that there is a higher law that speaks to them. Whether it was that Brigham Young was the head and front of everything in Utah; whether it was that they rose in insurrection against the troops of the Government in 1857; whether they were in constant conflict with the governors who were sent there by the President of the United States and the Senate; whether it was their constant declaration that the law of 1862 was unconstitutional, although it declared in plain terms a simple principle accepted by all mankind; whether it was that when the Supreme Court of the United States by a unanimous decision—Chief Justice Waite writing the opinion—

declared in crystallized form that monogamy was the cornerstone of modern civilization, and that no class could be tolerated that practiced anything else, they still insisted that the law of God controlled them. Though the law thus declared constitutional by the Supreme Court of the United States remained, though that decision was unchallenged, still for twelve years longer, and until the moment came when the strong arm of the Government threatened to keep the property of the church which had been escheated to it under act of Congress—during all those years the church, its leaders, its people, were consistent, persistent defiers of the law of the land, and there is nothing that keeps them or kept them from defying the law of the land when it interfered with what they apprehended to be the law of God as revealed to them but the policeman's club actually physically uplifted over them to compel submission.

Revelation, then, is the thread that binds all these things together, and observing and recognizing its persistence, we have a satisfactory explanation for all the history of the church. Its leaders violate, did violate, the law respecting polygamy because of revelation. They violate it to-day in respect of polygamous cohabitation because of revelation. They refuse to disclose the endowment secrets. Why? Because of revelation; because an obligation has been taken unto Almighty God that they will not disclose that which occurred in the endowment ceremony, no matter how important or how public may be the necessity for its disclosure.

Why is it that the president of the church declares that he who will not be true to his plural wives—and the word "true" has been unmistakably defined in the testimony—will be eternally damned, unless because revelation commands it? Why is it that five apostles and the first president, six out of the eight hierarchical polygamists, who solemnly covenanted in their plea for amnesty, addressed to the President of the United States and actually to Congress and the American people, that they and their associates would obey the law, would not defy the law, are, all six of them, to-day in defiance of law disobeying it, unless it be because they claim that God Almighty tells them to?

Why is it that John Nicholson, concerning whose capacity to testify a doctor in Washington gave evidence, but with respect to which the members of the committee who heard him have, I think, a sounder judgment, and those who have read his testimony have quite a satisfactory one, said he would not produce and bring here any marriage record that was in the custody of the church, at the instance and demand of this committee, at the instance and demand of the Senate of the United States, unless the president of the church told him to, and that the president of the church would not have to do it, unless it was because God speaks to them, and they know it, and His command is law to them?

Mr. Chairman, is it the moment when the chair thinks it time to take a recess?

The CHAIRMAN. Some members of the committee are obligated to attend another function at this time, and the committee will take a recess until 2 o'clock.

Thereupon (at 11 o'clock and 30 minutes a. m.) the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

ARGUMENT OF ROBERT W. TAYLER—Resumed.

The CHAIRMAN. Mr. Tayler, you may resume your argument.

Mr. TAYLER. Mr. Chairman, immediately before the adjournment I was illustrating, by the salient facts of this case, the influence, the dominating, ever-present influence of revelation, which is the basis of the very high authority which the hierarchy in the Mormon Church exercises over its people, and which to them, and from one point of view to us, justifies their defiance of law upon the theory that we may fairly assume, for the purposes of this argument, that it is not the spirit of lawlessness, but, upon the contrary, the spirit of obedience to law, to wit, a law higher than the law of the land. I want to proceed in this sketchy way only by reference to the salient points, without becoming discursive, which I will be a little later on when I refer to the testimony itself.

This principle of authority, derived, as it must be, as we know it to be, from revelation, is illustrated also by the way in which the Mormon Church is interested in business, by the way in which it is, in various forms and to an extent that is subject to varying interpretations, in politics: by its interference and interest in the private business affairs of its people, as, for instance, where the high council of Weber Stake, at Brigham City, met with the city council for the purpose of settling the electric-light question, and the instance where the stake presidency and his two counselors interfered with some young men who were building an amusement hall there and said that the church had a monopoly of the amusements of the people, and the first presidency intervened, holding that the local ecclesiastical authorities had jurisdiction, and required a settlement whereby the young men paid to the church 25 per cent of the profits or receipts of this business.

So, also, from this spirit of authority growing out of revelation, and without that they had not the right to do it, we know of their institution of courts, sometimes and in some regions exercised more generally than in others, but absolutely exercised, as we know by the official records of the case.

Now, all these things involve and determine Senator Smoot's status, and I am now only outlining the claim as to him.

First, in his attitude toward revelation, to which I have already made reference, and to which the order that I have in mind to pursue will make it necessary for me to refer again.

Second. His integral partnership in the hierarchy. He is not an independent person. No individual member of the hierarchy is independent. They are a unit. But of that I will speak farther on.

His acts of omission and commission. Different views will be taken as to the extent of his duty, as well as of the extent of his power. But we do know what his relation is and was to the Cluff incident—the president of the Brigham Young University, an institution in which there were a thousand young people of both sexes—wherein Senator Smoot, a trustee and member of the executive committee, if

he did not have knowledge, said he had reason to believe that the president of that institution was not only a polygamist, but that he had taken another plural wife, the daughter of a high official of the church, as recently as 1899, and he permitted him (that is to say, he made no objection, and made no investigation), this new polygamist, as well as old polygamist, to remain at the head of that institution, and then when he retired he voted or consented to, and now approves of, the election of another polygamist in his place: his participation since this case commenced in the election of Penrose, a polygamist, to the apostleship to succeed one who was not a polygamist: his relation to Joseph F. Smith, whom he voted to make the president of the church, and whom he has sustained regularly ever since, and also the other apostles.

Next, his determination not to interfere with polygamists, his statement not only that he has not complained of it, that he has not disapproved of it, that he has not criticised his associates in the hierarchy, but also that he will not, and does not intend to, speak to them or to take any steps toward seeing that they, his associates in this close institution, should either be prosecuted or disciplined in the church, whose rules they violate.

His attitude with respect to this endowment ceremony, his refusal to disclose what it was, and his statement made here in the presence of this committee that he could imagine nothing that could induce him to reveal it, not even the Senate, not even the courts, not even the power of the law.

Now, I think that in order that my argument may be the better understood, I will proceed at this point to lay before the committee what I apprehend to be the main facts established in the case, and by the main facts I mean the immediate facts as distinguished from what I might call the interpretative facts, to which I will allude when I have finished this statement of the immediate facts:

That the Mormon hierarchy, composed of the first presidency and 12 apostles, is a self-perpetuating body, assuming and exercising supreme authority in religious and temporal matters.

"Articles of faith, by J. E. Talmage, witness for respondent (p. 213, sec. 27).

"The quorum of the apostles.—Twelve men holding the apostleship, properly organized, constitute the quorum of the apostles. These the Lord has designated as the 12 traveling counselors;^a they form the traveling presiding high council, to officiate under the direction of the first presidency in all parts of the world. They constitute a quorum whose unanimous decisions are equally binding in power and authority with those of the first presidency of the church." When the quorum of the first presidency is disorganized through the death or disability of the president the directing authority in government reverts at once to the quorum of 12 apostles, by whom the nomination to the presidency is made. There may be and at present are apostles in the church who are not members of this quorum of 12, but such could claim no place in the sittings of the quorum." (Cowley, "Talks on Doctrine." See testimony of Joseph F. Smith, Vol. I, p. 245.)

^a Doc. and Cov. 107, 23-23.

^b Doc. and Cov. 107, 24.

- "It is not the individuality of the person which calls for respect and consideration; it is the principle involved. God has placed this authority upon humble men. Through their administrations can be secured the benefits and blessings which follow obedience to the ordinances of the gospel. Implicit obedience must be rendered. The mandates of Jehovah are imperative. No substitute will do. The condition is complete to the plan of salvation as established by Almighty God."

Now, its assumption of supreme authority in temporal matters is shown by extracts from the Doctrines and Covenants, an inspired and authoritative work, and by a series of declarations made by all the prominent men of the church, from Brigham Young to Joseph F. Smith and his chief associates in the hierarchy. A simple illustration of this, of which scores could be furnished from the testimony, is found in the statement of Apostle Hyrum M. Smith, testified to have been made by him, and admitted by him here in this committee room to have been made, at a conference of Boxelder Stake, when he spoke as follows:

"From the viewpoint of the gospel, there could be no separation of temporal and spiritual things, and those who object to church people advising and taking part in temporal things have no true conception of the gospel of Christ and the mission of the church." (Hyrum M. Smith, Vol. I, pp. 506-507.)

And he testified (p. 507) that no member of his church had ever refused to obey any counsel he gave them in such matters.

"Senator DUBOIS. Mr. Smith, supposing a member of your church refuses constantly this counsel which you are disposed to give him?

"Mr. HYRUM M. SMITH. Well, supposing, Senator; what is it?

"Senator DUBOIS. What happens to that individual who refuses persistently to obey the counsel which your officials choose to give him?

"Mr. HYRUM M. SMITH. Well, speaking for myself, I never had any of them refuse to obey counsel I have given.

"Senator DUBOIS. You are not answering my question.

"Mr. HYRUM M. SMITH. Well, you said counsel I gave, and I have no such case.

"Senator DUBOIS. You never counsel your people?

"Mr. HYRUM M. SMITH. Yes, sir.

"Senator DUBOIS. Please read my question. I would like to have an answer.

"The reporter read as follows:

"Senator DUBOIS. What happens to that individual who refuses persistently to obey the counsel which your officials choose to give him?"

"Mr. HYRUM M. SMITH. If a person persistently refuses to receive the counsel which he is given, why, that individual would not be considered in full fellowship with those who give the counsel.

"Senator DUBOIS. Would he be considered in full fellowship with the church?

"Mr. HYRUM M. SMITH. Not if that counsel was given by the church.

"Senator DUBOIS. Suppose it was given by a high representative of the church like an apostle. Would not the apostle in that case be the representative of the church?

"Mr. HYRUM M. SMITH. Yes, sir: an apostle is a representative of the church.

"Senator DUBOIS. Then he would not be in fellowship with the church if he refused to obey the counsel which the apostle of the church gave him?

"Mr. HYRUM M. SMITH. Providing that counsel pertained to the church and to good fellowship in the church. He would cease to be in fellowship if he refused to obey that counsel."

This is but a type of many such cases.

Its exercise of supreme authority in temporal affairs is shown—of course I will, in a sense, repeat some things that I have said, for I have only said what I have in order that the perspective of this case might be thrown upon the canvas, and that what I would later have to say might be better understood:

First—

Now, this is the exercise, not the assumption merely, of this supreme authority—

By its constant and universal interference in politics: by its disciplining those of its prominent members who became candidates for office without its consent. It unfrocked Moses Thatcher for daring to be a candidate for the United States Senate. It not only deposed him from his apostleship, and disciplined him through its church courts, and defeated him for the Senate, but has denied him admission to the temple. Moses Thatcher, who is now a good Mormon, and is known to be one of the ablest men in the Mormon Church, and one of its very highest types of men, in character, in ability, and in standing in his community, himself testified, with a pathos that everyone felt who heard him, that he supposed he was the only Mormon of his age who does not hold a priestly office.

[Testimony of Moses Thatcher (Vol. I, p. 1045).]

"Mr. THATCHER. Oh, no; 1896, I think. It would be 1896, the same year, as I remember, April to November. In that act the quorum removed me from the apostolate, stating in their decision that I was relieved of all priestly offices whatever, so that I suppose I am possibly the only man of my age in the church who holds no office in the priesthood.

"Mr. TAYLER. You are denied the right to enter the temple, are you?

"Mr. THATCHER. Yes, sir.

"Mr. TAYLER. To whom is that right accorded to enter the temple?

"Mr. THATCHER. The president of the church, as I understand it, has that right to deny or receive; but ordinarily when people wish to go through, they receive first a recommendation from the bishop of the ward in which they live; second, the indorsement of the president of the stake in which they live, and third, of course, the approval of the president if he should in any case have objections.

"Mr. TAYLER. I think a general definition was given here a day or two ago, by somebody who knew, as to who were ordinarily permitted to enter the temple.

"Mr. THATCHER. I had been in the habit, with others, the quorum of the twelve, my fellow-laborers, and the presidency, of meeting there once a week, and until this date had never been denied admission.

"Senator FORAKER. I thought you said a while ago you were not now allowed the privilege of entering the temple?"

"Mr. THATCHER. That is what I said, sir.

"Senator FORAKER. What is the statement you made just now. You said, 'until this date' you had not been denied.

"Mr. THATCHER. The date at which I appeared at the temple and was denied entrance."

To the true Mormon chains and stripes and persecution, imprisonment—perhaps death itself—are not to be compared to the punishment that has been inflicted upon him for daring to stand up against the ecclesiastical authority.

Here is the solemn statement of Mr. Thatcher's position before the church disciplined him (vol. 1, p. 1031):

You make this general charge against my temper or disposition:

"And now I come to what appears to be the chief reason for my suspension and subsequent deposal, viz. the political manifesto read in the April conference. I regard this as the main difference between us, because of the space you give it in your open letter; and because President George Q. Cannon said plainly to Elder B. H. Roberts that it was not right to circulate other charges about me, as my name would not have been dropped had I signed the manifesto; and because a leading apostle declared that, within three days from my refusal to sign I would have been brought to trial had my health permitted; also because I was never publicly or privately accused of the other offenses you charge until after its presentation for my signature; and last, because at the Logan high council meeting President Joseph F. Smith gave that as the reason for my suspension. You say 'there was nothing new in that document, as it relates to church discipline;' that 'it contains that which has always been an established doctrine of the church,' and that 'usually men do not require much time to consider a matter which they have always held to be right.'

"Had my views relating to this subject harmonized with your statements there would have been no hesitancy on my part in signing that instrument or accepting this rule of discipline. Had I understood that it was simply an old and established doctrine of the church I would have given no attention to the previously published declarations of the presiding quorum of the church respecting the absolute political liberty and individual responsibility of the citizens of Utah. And I believe that perfect freedom of political action, unrestrained by fear of ecclesiastical punishment, is essential under our republican form of government. This principle is so well established in the Declaration of Independence, in the National Constitution, and in the constitution of our own State that it needs no argument to sustain it. Could I have accepted as a fact your statements I would have saved myself the distress that has followed my course regarding the manifesto of October, 1890, which was generally considered and is still regarded as the first public and effective movement toward securing statehood for Utah.

"But my vote was sincere; and so it was a year later when the authorities and saints of the church, in general conference assembled, pledged themselves as individuals and as a people to this Government that the members of their church should be untrammelled in all civil concerns; when it was declared that there was no founda-

tion or excuse for the statement that church and state were united in Utah, or that the leaders of the church dictated to the members in political matters; and that whatever appearance of church domination there might have been in the past, nothing of the kind would be attempted in the future. I sincerely believed in these declarations and the subsequent official declarations of the authorities of the church on this subject. On the 18th day of March, 1892, the first presidency of the church declared, over their official signatures:

“We have no desire to interfere in these (political) matters, but proclaim that, as far as we are concerned, the members of this church are entirely and perfectly free in all political matters.”

“In a leading editorial the *Deseret Evening News* reaffirmed the position of the authorities as stated in their public declarations, and added:

“The public, however, must not expect that a leading churchman shall become a political enmich because of his ecclesiastical position. He is as much a citizen, with all the powers and liberties of a citizen, as if he were a layman or an infidel.”

“And the views expressed by the first presidency in the celebrated *Times* interview must bear a portion of the responsibility for the sentiments so thoroughly grounded in me. I call your attention to the following extracts from the answers carefully prepared by them:

“Does the church claim the right to dictate to its members in political matters?”

“The church does not claim any such right.”

“That being true, are we to understand that the church will not assert any right to control the political action of its members in the future?”

“This is what we wish to convey and have you understand. As officers of the church, we disclaim the right to control the political action of the members of our body.”

“Do you believe that it is the wish of the Mormon people to unite with the great national parties and to conduct politics in this Territory as they are conducted in all other States?”

“That is the impression we have received from conversation with the men among us who take the greatest interest in political matters.”

“Is there any reason why the members of the church should not act freely with the national parties at all times?”

“We know of no reason why they should not.”

“Is there any foundation for the charge that the Mormon leaders are now engaged in a political conspiracy to secure political power for the church?”

“There is not the least ground for any such statement. We are not engaged in any conspiracy of this character.”

“The opponents of party division on national lines declare that they want evidence of the sincerity of the Mormon people. The *Times* would ask you to state whether the declarations of sincerity on the part of those leaders who have been before the public reflect your views and meet with your approval?”

“Those declarations express our views and have our entire approval.”

“What greater evidence can be asked than that which has already been given? It has been asserted, in addition, that the people were governed by the priesthood in political matters. This is now dis-

proved by the dissolution of the People's Party and the union of its members with the two national parties. What could possibly be gained by the action of the people if they were not sincere? If the elements of sincerity were wanting, such a movement would result in entire demoralization.'

"If I could have looked upon these grave and solemn declarations differently I might have been spared the pain and humiliation following my failure to sign what you say has 'always been a doctrine of the church.' If this were well established and generally understood to be 'a doctrine of the church,' was not its reissuance in documentary form wholly unnecessary? You ask:

"Why should Moses Thatcher alone, of all the church authorities, feel that he could not sign it, as he alleges, without stultification? Was not that in itself evidence that he was and had been out of harmony with his brethren? And are they not men as little disposed as anyone living to stultify themselves, or to assent to anything wrong that is of vital importance to them and to the church?"

"I could not sign that manifesto because I had indorsed the others heretofore quoted, and because I could not reconcile this last one with those made by my file leaders and ecclesiastical supporters between 1890 and the date of Utah's admission into the Union. I must be permitted to suggest that my fellow-members of the quorum to which I once belonged can define better than anyone else their views of right and wrong and their ideas of what constitutes 'stultification,' but nevertheless, like myself, they are subject to human weaknesses and human errors. As students of history each citizen must determine how long any people can prosper under the practice of punic faith, secretly carried into effect or openly avowed. The declarations of perfect political freedom to all the saints are just as binding to-day as they were before we obtained statehood, and it is the duty of every citizen of Utah to so regard them.

"And now, having shown by quotations from unquestioned authoritative sources why I should not, without stultification, sign the political manifesto, I am bound to stand where counsel and conscience have placed me; for, with other citizens of Utah, I was bidden 'to attach myself to the party of my choice and then be true to that party.'

"While doing that I have constantly endeavored to show, upon every proper occasion, that respect and honor due my ecclesiastical superiors. I had thought that there was room, in Utah, as elsewhere, for a citizen to do his whole duty to the State without interfering, in the least degree, with his obligations to the church of which he might be a member.

"The views respecting nonunion of church and state are those I have held and openly advocated for more than a quarter of a century. Recent occurrences have intensified rather than modified them, and I now comprehend better than heretofore the wisdom expressed in that part of our State constitution relating to the absolute separation of civil and religious matters. And while the State is bound to protect the church in the fullest possible religious freedom, the church must not attempt, directly or indirectly, to dominate in civil or political affairs.

"As Latter-Day Saints we are doubly bound to take cognizance of this. Loyalty to the Government protecting us demands it and the

law of the Lord requires it. I quote from section 58, paragraph 21, page 219, Book of Doctrine and Covenants:

“Let no man break the laws of the land, for he that keepeth the laws of God hath no need to break the laws of the land.”

“Again, from section 98, paragraphs 4 to 9, inclusive, page 342:

“And now, verily, I say unto you concerning the laws of the land, it is My will that My people should observe to do all things whatsoever I command them; and that the law of the land is constitutional, supporting that principle of freedom in maintaining rights and privileges, belongs to all mankind, and is justifiable before Me; therefore I, the Lord, justify you and your brethern of My church, in befriending that law which is the constitutional law of the land, and as pertaining to the law of man. Whatsoever is more or less than these cometh of evil.

“I, the Lord God, make you free, therefore you are free indeed; and the law also maketh you free; nevertheless, when the wicked rule the people mourn.”

“There is no room here for comment. It holds me in the silken warp and woof of liberty and love woven in the Almighty’s loom of truth and justice. Planting my feet upon that divinely inspired platform, and laying upon its altar honor, fortune, and, if necessary, life itself, I look anxiously but hopefully forward to the day when petty jealousies, envious hatred, and malicious accusations shall be deeply buried beneath mountains of peace, prosperity, and happiness resting permanently in Utah, upon the wide toleration and good will of her inhabitants toward all creeds and classes throughout the world. Should I live to witness one such day—the beginning of a series that shall not end—the memory of pains, afflictions, tears, and sighs shall pass, even as a dream at the dawn of a new day.

“Utah pioneers—the aged and venerable—Utah’s brave sons and daughters deserve such a happy consummation.

“And what is there in human requirement or divine injunction to prevent me from humbly trying to devote the remainder of my days to the cause in which I have spent nearly forty years? It is true there are some of the stakes in Zion whose good people, as you state, I have never visited at their homes. But it is equally true that nearly half of my time since I became a member of the church has been spent upon missions of various kinds. During a period of six years I crossed the line into Mexico some twenty-three times, and for quite a long period my annual travels covered from 15,000 to 20,000 miles a year. There are, I believe, some members of the quorum to which I once had the honor of belonging who have never, to my knowledge, been on a mission at all. But I would not infer from that they have neglected the duties of their calling.

“As I have already stated, I understood the manifesto at the time it was handed me for approval just as I understand it now. While it ostensibly appeared not to restrict the liberties of the people, yet there was no limitation to its application, and in view of the fact that nearly every male member of the church holds some office, and as there has as yet been no public decision announced as to the officers to be controlled by it, there have arisen disputes and differences of opinion as to its intent. This being true, and the danger being that it could be applied to restrict the liberties of the people, I can not sustain it. I thought then, as I think now, that such a course

would be a stultification. I had never dreamed that a condition would arise in my life where I could not serve God fully and yet yield my complete allegiance to my country and to my State. The spirit of the manifesto, as it appealed to me, was in violent antagonism to all I had believed and publicly proclaimed for many years, and I could not, and so far have not been able to, bring myself to a point where I believed I should yield my political judgment to any set of men, however praiseworthy their intentions.

"The position taken by me in political affairs was one that I could not alter. Through my veins and into them for generations has been sifted a blood that acknowledged the supremacy of the people only in civil affairs. Because of this it was easy for me to understand and accept the principles of Christ as explained by our church, which, as I understand them, accord the right of freedom and grant the free agency of man before God and among men. And it is because these rights are accorded men under the Gospel of Christ, as accepted by Latter-Day Saints, that I have yielded obedience to the Gospel, have labored for it, and love it for the labor I have given it.

"This assertion may not be accepted by you, but such activity as I have shown in politics has been caused by an anxiety to preserve the reputation of my file leaders when they gave assurances of political honesty among the saints, for there were intimations—and they are well known—that in pledging political freedom to the people of Utah the authorities were insincere in their declarations. My unwillingness to take part in Democratic campaigns, in face of the course of my Republican brethren, was one of the grounds on which it was asserted that the church authorities had broken faith. While I have loved Democracy, because to me its name embodies all of civil liberty, yet I did not want to take an active part in politics because of my poor health and because I did not deem it wise for one holding my position in the church to become aggressive in the division movement. Yet, against my own judgment, in defiance of the demands of my health, and that it might not be said of the first presidency that their pledges were given to deceive, I made some political speeches.

"For the same reason—having in mind the honor of the people and the reputation of the church leaders and against my solemn protest—I consented that my name should be used as a Senatorial candidate. For this act I was taken to task at a priesthood meeting. When the manifesto was presented to me it appeared to my mind as a command on all to recognize the right of the church authorities to control political concerns; it meant, so far as I was concerned, the recantation of the principles I had for years advocated—a receding from the ground I had occupied during the division movement, and, above all, it made me feel that I would be untrue to myself.

"I do not claim that I can not be wrong. But with the light I have, the manifesto (applied as its construction will allow or as it would be interpreted by men whose personal ambitions might control and subvert their sense of right) could be operated to the injury of the State.

"If, as I hold, the people have enough intelligence to deserve citizenship, then they have sufficient intelligence to become acquainted with the responsibilities of citizenship, and they have no more right to yield their judgment in respect of the exercise of the franchise than have any set of men to attempt to control that judgment.

"Whatever the cost, with the knowledge now guiding me I must still stand where I have stood for years. My whole life and its work contradict the charge that I could seek office on a platform antagonistic to any church. I should oppose any man who stood upon such a platform. I did say that if the voters of the State of 'young Utah' believed I represented principles they deem deserving of recognition and was, therefore, tendered the United States Senatorship I would accept. For the information of those interested, it must be understood that I am a Democrat, with all the word signifies. As a Democrat I hold it a duty for every citizen to enjoy the privileges conferred upon him by our Government, and that it is given to no man, to no corporation, and to no body of men to control the citizen in the exercise of his franchise.

"I believe in that democracy which declares for equal and exact justice to all, with special privileges to none.

"I am for a Jeffersonian government, in which, so far at least as legislation makes to that end, there shall be no extremely rich and no abjectly poor. I favor the principle of an income tax.

"I am for the money of the Constitution, as interpreted in the Democratic platform adopted at Chicago this year.

"I am for a tariff that will realize the amount necessary to conduct the Government without running it into debt in times of peace; but that tariff must be so levied and so adjusted that its burdens and advantages shall be borne and shared alike by all industries and by all parts of our common country.

"I am with the State constitution in the declaration that there shall be an absolute separation of church and state; that the state shall not control the church nor the church encroach on the prerogatives of the state, and to this end I have indorsed and still indorse the declarations of the Democratic reconvened convention of a year ago.

"I invite neither the support nor the opposition of the church. It has no concern in political issues. The members of my former quorum have deemed it expedient to deprive me of my priesthood. If I discuss their action, it is as a church member. As a citizen and a Democrat I do not concede their right to discipline me for any cause whatever. As a member of the Democratic party, as a citizen, I deny their right or their intention to interfere with my politics, the threat of the Deseret News, as the church organ, to the contrary notwithstanding.

"In conclusion, I desire to say that I do not complain of the treatment accorded me, nor do I murmur at the humiliation to which I have been subjected, but I can not think the threatened excommunication from the church, as intimated in some quarters, can be seriously entertained. Am I to be driven out of the church because of the manifesto? I shall try and live the religion of our Savior. I want to live and die among my brethren and friends. I desire to do my duty to my church. I wish my children to observe the principles of the Gospel, that they too may desire to live, die, and be buried by the side of their father, when they shall reach, on the hillside, a final place of peace and rest.

"With sentiments of esteem, I am, as heretofore, your brother in the Gospel.

"MOSES THATCHER."

Reed Smoot was required to obtain the consent of the apostles before becoming a candidate, and when he obtained that consent it was known that his election was thereby assured, if a Republican legislature was elected.

Witness Stephens testified that Senator Kearns's candidacy was approved by President Snow, and that if he had not thus been approved he probably would not have been elected.

[Testimony of Frank B. Stephens (Vol. III, p. 389).]

"Senator DUBOIS. Do you think Mr. Kearns would have been elected if the church had not been for him?"

"Mr. STEPHENS. No; I do not think he would."

* * * * *

The same witness also testified that Senator Kearns was opposed latterly by church officials, and that therefore he did not become a candidate for reelection.

"Senator OVERMAN. You say Senator Kearns could not have been elected except for the interference of the church, in your opinion?"

"Mr. STEPHENS. I say I reflect common rumor in that respect, Senator Overman.

"Senator OVERMAN. Did the church have anything to do with the failure of Senator Kearns of reelection?"

"Mr. STEPHENS. There is such a rumor, that he was not able to get the influence—that is, for a reelection.

"Senator OVERMAN. If he had had the church back of him, then he would have been reelected, you think?"

"Mr. STEPHENS. I could not say that. I do not think he could get the church back of him now.

"Senator OVERMAN. But if he had had it, as he had it before?"

"Mr. STEPHENS. It might be possible.

"Senator OVERMAN. What do you think of it? Do you think he would have been elected if he had had the church influence he had before?"

"Mr. STEPHENS. If the same conditions existed that existed before, I suppose he would have been elected.

"Senator OVERMAN. That is, with the church in his favor?"

"Mr. STEPHENS. Yes, sir."

The church controls the politics of Utah, when it wills to do so, and by holding the balance of power in Idaho and Wyoming obtains freedom in the practice of unlawfulness by its members in both States.

[Testimony. C. H. Jackson (Vol. II, pp. 214-215).]

"Mr. VAN COTT. Will you explain, Mr. Jackson, what justified you in making the statement you did yesterday that the Mormons controlled in the nomination of the governor, for instance, Frank R. Gooding, if they hold only a third of the representation?"

"Mr. JACKSON. The politicians of Idaho know, regardless of their politics, that whichever way the Mormons vote so goes the State. No man can be elected governor in our State without the Mormon support, and no party can be successful without it. Therefore, when the Mormons come up in a bunch and indicate a preference for

any man, the politicians are usually too glad to put that man on the ticket.

"Mr. VAN COTT. That is, the one-third of the convention wags the two-thirds and makes it go the way it desires. Is that correct?"

"Mr. JACKSON. That is apparently so.

"Mr. VAN COTT. Apparently so?"

"Mr. JACKSON. But you must remember that in the balance of our State, especially in the southern counties, there are strong Mormon settlements, which go to control part of what are called the Gentile counties. The Mormon Church absolutely controls six counties, and it holds practically the balance of power in six other counties. So, while ostensibly the number of Mormons in our conventions or in our legislature is apparently only one-third, yet as a matter of fact the control is always in the hands of the Mormon Church, because they hold the balance of power in the other counties, and they use the Gentiles there as well as the Mormons to represent them.

"Mr. VAN COTT. That is, the Gentiles are willing to subserve the will of the Mormon Church, in your opinion?"

"Mr. JACKSON. I think when an election is offered to a man if he will do certain things that nine times out of ten they will do it. That has been my experience.

"Mr. VAN COTT. That is your opinion of the Gentiles in Idaho?"

"Mr. JACKSON. Not of the Gentiles, but of the politicians.

"Mr. VAN COTT. The politicians can not carry the conventions and the elections?"

"Mr. JACKSON. I have usually found that the politicians have a great deal to say about it.

"Mr. VAN COTT. Now, do I understand you to say that the Mormons can elect their own representatives, so as to hold a majority in a convention?"

"Mr. JACKSON. They can, by their six Mormon counties and the influence which they have in other counties, control."

In half of the public school buildings of Utah, immediately after the close of school, children are instructed in "religion classes," generally, perhaps always, by the public school-teachers under written authority and instructions from high general officials of the church: the course of study is prescribed by the hierarchy, and consisted, during the school year 1903-4, of instruction respecting the life and works of leading Mormons, including every prominent and notorious polygamist, living and dead. One day was set apart for the purpose of holding up as an example to little boys and girls the life of Joseph F. Smith; another to Brigham H. Roberts; another to Apostle Merrill; another to John W. Taylor, who has fled the country and refuses to appear before the Senate committee; and so on through the long line of polygamous saints.

[Testimony of A. C. Nelson. (Vol. II, p. 367.)]

"Mr. TAYLER. How many schools are there?"

"Mr. NELSON. There are 280 school districts in our State. There are 606 school buildings, and of course it would be quite impossible for me to visit all those buildings; but, as I said, I have visited each county, and usually visit from three to four schools in each county.

"Mr. TAYLER. How many school districts?"

"Mr. NELSON. Two hundred and eighty school districts.

"Mr. TAYLER. In the city districts and larger communities there will be several buildings in a school district, I suppose, which is the occasion for the larger number of buildings?

"Mr. NELSON. Yes; Salt Lake City, for instance, consists of one district only, and there may be 30 to 35 or 40 buildings.

"Mr. TAYLER. Have you made any investigation recently as to the extent to which religion classes are conducted in the several schools over which you have supervision?

"Mr. NELSON. Schoolhouses?

"Mr. TAYLER. Yes; schoolhouses.

"Mr. NELSON. Yes, sir.

"Mr. TAYLER. Have you completed your investigation?

"Mr. NELSON. No, sir.

"Mr. TAYLER. What proportion of the schools have you investigated?

"Mr. NELSON. Early in October of this year I sent out letters, requesting information on the holding of religion classes in schoolhouses, to all of the city and county superintendents throughout the State, 30 in number. All have replied but three. I have written those three several times, but I have failed to secure a response.

"Mr. TAYLER. What three are those?

"Mr. NELSON. Three who have not responded are the county superintendents of Iron County, Weber County, and Tooele County.

"Mr. TAYLER. In how many school buildings, Mr. Nelson, do you find religion classes carried on?

"Mr. NELSON. Well, I have found some more than 300 of those classes being held in schools. The information discloses that classes are always held after the dismissal of school.

"Mr. TAYLER. Do you learn that any of them are held as early as half past 2 in the afternoon?

"Mr. NELSON. Yes sir; from 2.30 until 4, the information is.

"Mr. WORTHINGTON. Does that mean the class begins at those hours, or sits in those hours?

"Mr. NELSON. The schools close from those hours—from 2.30 to 4—and the classes go into session immediately after adjournment.

"Mr. TAYLER. Mr. Nelson, did you have some discussion on this subject with the editor of the Deseret News?

"Mr. NELSON. I think two or three days before the election of the school board, which occurred on December 8, I think, maybe the 7th, I am not sure—

"The CHAIRMAN. What year, Mr. Nelson?

"Mr. NELSON. The present year, this present month, one of the editors of the Deseret News, or one of the reporters, I don't know his name, called me by telephone and said he would like an interview.

"The CHAIRMAN. I did not hear your answer, Mr. Nelson.

"Mr. NELSON. One of the editors of the Deseret News called me some time during the early part of December, stating that he desired an interview, and when I came he discussed briefly with me the conditions as they obtained in the State in regard to the religion classes, and I told him then that I had been conducting this investigation for some time.

"Mr. TAYLER. Is that all that occurred?

"Mr. NELSON. I gave him considerable of the information.

"Mr. TAYLER. You gave him this information?

"Mr. NELSON. I gave him part of it. My returns were not as complete then as they are now.

"Mr. TAYLER. Is it not a fact that you were informed at that time that an editorial was written or was about to be printed denying that religion classes were being conducted in the public school buildings?

"Mr. NELSON. I think the gentleman had made some notes to that effect.

"Mr. TAYLER. And of course you showed him——

"Mr. NELSON. I told him the truth in regard to the matter. Evidently he had no information.

"Mr. TAYLER. Have not some of the authorities criticised you for giving out this information of religion classes?

"Mr. NELSON. No, sir.

"Mr. TAYLER. Not one of them?

"Mr. NELSON. No, sir.

"Mr. TAYLER. Or Governor Wells?

"Mr. NELSON. No, sir. That is, I did not take it in the nature of a criticism. Governor Wells met me one evening on the street, and he told me of an interview that he had had with a gentleman on the very subject of religion classes being conducted in the public schools. He informed me that he had told the gentleman that he was telling something that he did not know anything about, because those classes were not held. He came to me, and I said, 'Governor, I must inform you that you are mistaken, that the gentleman evidently knew what he was speaking about.' I did not take it that the governor had in any way censured me.

"Mr. TAYLER. Have you there in tabulated form the statement of the number of districts and the number of classes, so that you could give them to us without much delay?

"Mr. NELSON. Yes, sir; I think so. I would like to ask that the counties that conduct no religion classes may be made part of the list.

"Mr. TAYLER. Surely.

"Mr. NELSON. Beaver County, 9 districts, no religion classes.

"Boxelder County, 30 districts and 44 classes.

"Mr. VAN COTT. Will you say 'religion classes' when that is meant, so that there will be no doubt?

"Mr. NELSON. Yes, sir.

"Cache County, 26 districts, 16 religion classes.

"Carbon County, 11 districts, 2 religion classes.

"Davis County, 16 districts, 16 religion classes.

"Emery County, 12 districts, 20 religion classes.

"Garfield County, 10 districts; no religion classes are held.

"Grand County, 2 districts, no religion classes.

"Iron County, 7 districts, no report.

"Juab County, 13 districts, 16 religion classes.

"Kane County, 6 districts, 8 religion classes.

"Millard County, 17 districts, 22 religion classes.

"Morgan County, 8 districts, 14 religion classes.

"Piute County, 8 districts, no religion classes.

"Rich County, 7 districts, 14 religion classes.

"Salt Lake County, 36 districts, 12 religion classes.

"San Juan County, 2 districts, 2 religion classes.

"Sanpete County, 17 districts, 28 religion classes.

"Sevier County, 17 districts, 28 religion classes.
 "Summit County, 17 districts, no religion classes.
 "Tooele County, 12 districts, no report.
 "Uinta County, 16 districts, 16 religion classes.
 "Utah County, 20 districts, 16 religion classes.
 "Wasatch County, 9 districts, 16 religion classes.
 "Washington County, 18 districts, 8 religion classes.
 "Wayne County, 12 districts, 24 religion classes.
 "Weber County, 13 districts, no report.
 "Salt Lake City, 1 district, no religion classes.
 "Logan, 1 district, 14 religion classes.
 "Provo, 1 district, no religion classes.
 "Mr. TAYLER. That is the answer to the question, is it?
 "Mr. NELSON. I think so; yes, sir. That includes every school district."

[Testimony of Reed Smoot (Vol. III, pp. 262-264).]

"Mr. TAYLER. You know now, do you not, that several hundred such religion classes were being instructed in schoolhouses?
 "Senator SMOOT. Conducted, do you mean?
 "Mr. TAYLER. Well, conducted.
 "Senator SMOOT. In schoolhouses?
 "Mr. TAYLER. Yes.
 "Senator SMOOT. After school hours?
 "Mr. TAYLER. Yes.
 "Senator SMOOT. I so testified yesterday.
 "Mr. TAYLER. I do not know that you said how many. It was the number to which I was attaching importance.
 "Senator SMOOT. I could not say.
 "Mr. TAYLER. Do you remember the testimony of the State superintendent of public instruction?
 "Senator SMOOT. I think he stated there were some three hundred, as I remember it.
 "Mr. TAYLER. Do you have anything to do with the Sunday school system of your church?
 "Senator SMOOT. Nothing at all.
 "Mr. TAYLER. Who is at the head of it?
 "Senator SMOOT. President Joseph F. Smith.
 "Mr. TAYLER. Who is in immediate charge of that branch of your church work?
 "Senator SMOOT. Lars Eggertsen.
 "Mr. TAYLER. What position does Joseph M. Tanner hold in relation to it?
 "Senator SMOOT. He is over the whole.
 "Mr. TAYLER. Of course the president of the church is the head of it all.
 "Senator SMOOT. Yes.
 "Mr. TAYLER. Joseph M. Tanner is the general superintendent?
 "Senator SMOOT. Yes.
 "Mr. TAYLER. He is a man who is said to be a polygamist?
 "Senator SMOOT. Yes.
 "The CHAIRMAN. By whom is he chosen or appointed to that position?"

"Senator SMOOT. By the president of the church.

"The CHAIRMAN. When was his appointment made, if you know?

"Senator SMOOT. I would not want to testify. I should say within three or four years; something like that.

"The CHAIRMAN. At the time the appointment was made, was he known to be a polygamist?

"Senator SMOOT. I think so.

"Mr. TAYLER. You know, Senator, that during the last school year, 1903-4, instructions were issued to the various teachers——

"Senator SMOOT. I heard that testified to here.

"Mr. TAYLER. As to the subjects concerning which they should instruct the children?

"Senator SMOOT. I remember it being presented here to this committee.

"Mr. TAYLER. And you recall that those teachers were directed to instruct the children, among other things, in the lives of all the prominent Mormons?

"Senator SMOOT. I think so.

"Mr. TAYLER. The living as well as those who had passed away?

"Senator SMOOT. Well, if you would suggest it, I would say so; yes.

"Mr. TAYLER. For instance, the life of——

"Senator SMOOT. I have no doubt of it.

"Mr. TAYLER. The life of President Joseph F. Smith?

"Senator SMOOT. He is living.

"Mr. TAYLER. And of Elder B. H. Roberts?

"Senator SMOOT. He is living.

"Mr. TAYLER. And of Supt. Joseph M. Tanner?

"Senator SMOOT. He is living.

"Mr. TAYLER. And of Elder Reed Smoot, of course, which would be a proper subject. Of Mathias Cowley?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of Mariner W. Merrill?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of John W. Taylor?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of Heber J. Grant?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of George Teasdale?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of John Henry Smith?

"Senator SMOOT. He is living.

"Mr. TAYLER. Of Francis M. Lyman?

"Senator SMOOT. He is living.

"Mr. TAYLER. And except yourself all of them are polygamists?

"Senator SMOOT. I did not follow it with that purpose in view, but I rather think they are.

"The CHAIRMAN. Now, let me understand, Senator. Was the instruction given that biographies of these parties should form the text-books of the religion classes, or that the religion classes should be instructed in the lives of those men?

"Senator SMOOT. I do not think so. Of course, I have never had anything to do with the religion class work at all, but I take it that that is a part, perhaps, of the lesson—the lives of one of the men

spoken of—but I do not think that they would in speaking of them speak of them as polygamists and teach that, or try to teach it to the students or to the classes there.

"The CHAIRMAN. Mr. Tayler, how did that appear; in what connection?

"Mr. TAYLER. I can get at the fact more quickly in this way. Do you not recall——

"Senator SMOOT. I do not want anything but the facts.

"Mr. TAYLER. Do you not recall that the pamphlet was sent out by Anthon H. Lund, Rudger Clawson, and Joseph M. Tanner, general superintendency of the Sunday school system or the religious instruction?

"Senator SMOOT. Oh! Is this the Sunday school?

"Mr. TAYLER. General superintendency of religion class work. That is it.

"Senator SMOOT. Then Tanner would not be on that.

"Mr. TAYLER. Tanner is one of the general superintendents.

"Senator SMOOT. Of religion class work?

"Mr. TAYLER. It seems that he signed this pamphlet.

"Senator SMOOT. He may be; I do not remember.

"Mr. TAYLER. He signed this pamphlet in which religion class outlines are given, with an introduction describing what is the scope of it, in which, among other things, this appears——

"Mr. WORTHINGTON. From what page do you read?

"Mr. TAYLER. Page 113 of the second volume.

"Abundant material for the biographical sketches of the present and many of the past leaders of the church may be found in the little work entitled "Prophets and Patriarchs," from the pen of Elder Mathias F. Cowley."

"And after general instruction as to how this work is to be conducted, there is the list of lessons with the subjects; as, for instance, in the primary grades, without going all over them, I read:

"Lesson XII.

"Third step. How children should be grateful for food and clothing.

"Fourth step. Sketch of Elder John W. Taylor's life.

"Lesson XIII.

"Third step. How children should be grateful to parents for giving birth to and rearing them.

"Fourth step. Sketch of Elder M. W. Merrill's life.

"That is Apostle Merrill.

"Lesson XXXIII.

"Third step. Why children should not be vain.

"Fourth step. Sketch of Elder B. H. Roberts's life, including his writings.

"Lesson XXXIV.

"Third step. Why children should avoid giving way to anger.

"Fourth step. Sketch of Supt. Joseph M. Tanner's life.

"And so on.

"Senator SMOOT. I take it that they are sketches in the course of the lessons of the day. Those lessons, I understand, were given one day a week."

We are told that since this testimony was received before the committee the church has ordered the discontinuance of these religion

classes in the public school buildings. The policeman's club brought that about, not the intrinsic merits of the order against teaching, not because they thought it was right, but because they were afraid to continue it. The public sentiment of the country would no longer tolerate it.

Courts of civil jurisdiction are instituted and regularly carried on, trying all kinds of property questions, including titles to land, with appellate courts, and ending with the first presidency as the court of last resort. The defendant must submit to the jurisdiction of the court under penalty of excommunication and ostracism, and judgments or decrees are in like manner enforced.

In the Birdsall case, concerning which the full official record is contained in the testimony in this case, involving the title to land, "the accused was involuntarily compelled to appear and defend."

[Testimony of Isaac Birdsall. (Vol. II, p. 326.)]

BISHOP'S COURT, *October 29, 1901—2 p. m.*

The case of James E. Leavitt against Isaac Birdsall and Cora Birdsall, his daughter.

Bishop Orson Magleby and Councilors Samuel W. Goold and Joseph A. Smith present. Also both parties and witnesses present.

Prayer was offered by Samuel W. Goold.

Bishop Magleby instructed the parties of the nature of a bishop's court, that proper decorum should be preserved and proper methods used to bring out truthful evidence.

The following complaint was read by Wm. A. Warnock, ward clerk:

"JOSEPH, SEVIER COUNTY, UTAH, *June 10, 1901.*

"To the honorable bishopric of Monroe Ward, Brethren: I hereby prefer a charge of unchristianlike conduct against Isaac Birdsall and Sister Cora Birdsall, his daughter, which consists of this:

"First. That Isaac Birdsall has defrauded me, by agreeing to furnish me the deed for about 60 acres of meadow and pasture land that I bought of Kent and Frank W. Farnsworth, which was in Birdsall's entry. It is in the S. E. $\frac{1}{4}$ of Tp. 25 S., R. 4 west, known as the Jerico pasture, in the Joseph precinct, for which he has received from me \$50.00 (fifty dollars) in part payment. That he has failed to deed me any land and has relinquished his claim to his daughter Cora.

"2nd. That Cora proved up on said land and in April, 1896, forbid me the use of my land and improvements and has appropriated the same to her own use, and refuses to deed to me the land that she knew belonged to me, that I had fenced and improved and possessed in peace from 1883 until 1896. I consider that I have been damaged to the amount of five hundred dollars (\$500) by being deprived of the use of said land. I therefore ask for the title to my land and damage. I therefore appeal to you in the matter and I ask that your court shall judge the matter between us and grant me the just equities of the case.

"Respectfully, your bro.,

"JAS. E. LEAVITT."

* * * * *

[Testimony of Isaac Birdsall. (Vol II, pp. 327-328.)]

Bishop's office of Monroe Ward, Sevier Stake.

MONROE, SEVIER CO., UTAH, *Nov. 1, 1901.*

Sister CORA BIRDSALL.

Bishop's court, held to decide in the case of James E. Leavitt against Isaac Birdsall and Cora Birdsall, his daughter, as presented at the bishop's court held Oct. 18, 1901.

After duly considering the matter as presented by both parties, our decision is—

That Cora Birdsall shall deed unto James E. Leavitt the northwest forty (40) acres of the SE. $\frac{1}{4}$ of sec. 1, Tp. 25 S., R. 4 W., of Salt Lake meridian, and that James E. Leavitt pay to Cora Birdsall the sum of one hundred dollars upon receipt of said deed.

You are hereby required to comply with this decision in writing, or on appeal taken to the high council on or before the 15 day of November, 1901.

ORSON MAGLEBY.

SAMUEL W. GOOLD.

JOSEPH A. SMITH.

And when she appealed to the first presidency to be permitted "to go to law"—that is, to resort to the civil courts of the State—the presidency, Joseph F. Smith, John F. Winder, and Anthon H. Lund, signing the letter, replied as follows:

[Same, p. 328.]

Office of the first presidency of the Church of Jesus Christ of Latter-Day Saints. P. O. box B.

SALT LAKE CITY, UTAH, *Nov. 12, 1901.*

Miss CORA BIRDSALL, *Monroe.*

DEAR SISTER: This is in answer to yours of the 10th inst., in which you express a desire to appeal your case direct to us from the bishop's court or go to law.

In answer we would say that in all such matters all members of the church are expected to follow the order of the church governing them, and that order provides that an appeal may be taken from the bishop's court to the high council and from the high council to the first presidency.

We would advise you to follow the order provided of the Lord to govern in your case.

Your brethren,

JOS. F. SMITH.

JOHN R. WINDER,

ANTHON H. LUND,

First Presidency.

"The order provided of the Lord!" By revelation, and hence necessarily by authority, and of course it goes without saying that is an authority higher than the courts instituted by the laws of the land can exercise.

The woman defendant in this case refused to make the deed ordered by the church.

[Testimony of Isaac Birdsall. (Vol. II, p. 336.)]

RICHFIELD, UTAH, *October 22, 1902.*

In this appeal case, brought from Bishop Orson Magleby's court, in which James E. Leavitt is the accuser and Sister Cora Birdsall is the accused.

Sister Cora Birdsall appeals from the decision of Bishop Orson Magleby's court.

On this case we render the following decision:

We sustain the decision of Bishop Magleby's court, viz: That Cora Birdsall shall deed unto James E. Leavitt the northwest forty (40) acres of the southeast quarter of section one (1) in township twenty-five (25) south of range four (4) west of the Salt Lake meridian, and that James E. Leavitt pay to Cora Birdsall the sum of one hundred dollars upon receipt of said deed. And we require Sister Cora Birdsall either to comply with this decision or appeal to the first presidency of our church before the 10th day of November next.

WILLIAM H. SEEGMILLER,
JOS. S. HORNE,
JAS. CHRISTIANSEN,
Sevier Stake Presidency.

* * * * *

[Same. P. 338.]

OFFICE OF STAKE CLERK,
Richfield, Utah, April 14, 1903.

Sister CORA BIRDSALL, *Elsinore, Utah.*

DEAR SISTER: In a letter to President Seegmiller and counselors, dated April 10, 1903, the first presidency of the church render their decision in the case of James E. Leavitt v. Isaac Birdsall and Cora Birdsall, his daughter, as follows:

After carefully reviewing the transcript of record in the case of James E. Leavitt v. Isaac Birdsall and Cora Birdsall, his daughter, tried by your high council October 21 last, and duly considering exceptions taken by defendants, we hereby affirm your decision in said case.

I remain, very respectfully,

J. M. LAURITZEN,
Clerk of the High Council.

* * * * *

She was thereupon excommunicated.

[Testimony of Isaac Birdsall (Vol. II, p. 339).]

OFFICE OF STAKE CLERK,
Richfield, Utah, June 23, 1903.

CORA BIRDSALL, *Monroe, Utah.*

DEAR SISTER: By direction of the stake presidency, you are hereby informed that at the session of the high council of the Sevier Stake of Zion held June 19, 1903, you were excommunicated from the Church of Jesus Christ of Latter-Day Saints for failure to comply with the decision of the first presidency of the church in the case of James E. Leavitt v. Cora Birdsall.

Very respectfully,

J. M. LAURITZEN,
Stake Clerk and Clerk of High Council.

The punishment was to her so frightful that she became demented. And remember that this is a modern instance. This case is less than a year old in its finalities. Her mother presented to the stake president—that is to say, the ecclesiastical head of the large area over which a stake president presides—the information of her daughter's sad and deplorable condition and begged that something be done to mitigate her sufferings. To this the ecclesiastical head of the stake, William H. Seegmiller, on February 4, 1904, replied, as follows:

[Testimony of Isaac Birdsell (Vol. II, p. 340).]

ST. GEORGE, UTAH, *February 4, 1904.*

MRS. MARY BIRDSALL, *Elsinore.*

DEAR SISTER: Yours of January 24 came duly to hand. I have read the contents with interest, and I regret very much that Cora is in the position you describe her to be. Surely an evil power is leading her to her destruction. If she wants relief from her present situation, she can obtain it by humbly complying with President Jos. F. Smith's decision in the case brought against her by James Leavitt, of Joseph, heard first by the Monroe bishopric, then appealed to the high council of the Sevier stake of Zion, and then appealed to Jos. F. Smith, whose decision stands against her, and will so stand until she complies with it. And while this condition is maintained she will be in distress and misery. Her only relief will be in complying with President Smith's wishes.

You say she has never broken a rule of the church.

You forget that in this case she has done so by failing to abide by the decision of the mouthpiece of God.

I pray God to bless her, that humility may possess her soul and lead her to do that which the president requires her to do. If she can't do this, I fear for her happiness here and hereafter.

I am, yours, in the Gospel,

WM. H. SEEGMILLER.

With these penalties threatening, it was not long until she executed a deed for a piece of land which she strenuously contended was her own.

Now, the record in this case absolutely denies the inference that is sought to be made by Senator Smoot in his testimony here, that the first presidency did not know what kind of a case this was. The letter replying to hers, asking if she could not go to law or appeal directly to the first presidency, specifically refers to it as a question involving the title of land; and the case itself, after it had been tried on appeal to the high council of the Sevier stake, went to the first presidency, and they entered a formal decree in the same language in which our courts enter their decrees, affirming the decision of the court below and ordering her to obey its injunction. The order in both of the lower courts is a specific order. It is not an order that she obey the court; it is an order that she proceed to make a deed to this man Leavitt for a piece of land which in the decree is described by metes and bounds. So that, if perchance it were a court instituted by the law of the land, the decree itself, in the absence of compliance with it by the party, would have operated as a deed.

Doctor Talmage, the ecclesiastical authority called to testify by Senator Smoot, criticised the use of the word "mouthpiece" in the letter written by the president of the stake to Miss Birdsall's mother, and said that it was wholly unauthorized.

It is sufficient to say in reply to this that the Doctrine and Covenants describes the president and the apostles as mouthpieces of God, and the finding of the high council which tried Moses Thatcher deliberately and officially found that the mouthpiece of God was a title to which the apostles are entitled, and congratulated the church that Moses Thatcher had so far become amenable to reason that he was again willing to "acknowledge the apostles as the mouthpieces of the Lord, clothed with authority as prophets, seers, and revelators."

* * * * *

[Testimony. E. B. Critchlow. (Vol. I, p. 566 et seq.)]

We now present, without further comment, the documents in the case, these being, in their order, the complaint, the findings of the presidency of the stake, their decision, Brother Thatcher's indorsement of that decision and his letter to the stake presidency, and the latter's acceptance of his letter and indorsement as a satisfactory compliance with the decision:

THE COMPLAINT.

SALT LAKE CITY, UTAH, *July 30, 1897.*

*To the Presidency and High Council
of the Salt Lake Stake of Zion.*

DEAR BRETHREN: We hereby prefer a charge against Brother Moses Thatcher of apostasy and un-Christianlike conduct, exhibited in public speeches, private conversations, in interviews through newspapers, and in other ways, showing a departure from the spirit of the gospel and the doctrine and discipline of the Church of Jesus Christ of Latter-Day Saints, such as to forfeit his right to fellowship and standing in the church.

Your brethren,

BRIGHAM YOUNG.
FRANCIS M. LYMAN.
HEBER J. GRANT.

THE FINDINGS.

Apostasy, as has been argued here, varies in its extent. In a general way apostasy means revolt. It is so defined in the dictionary. But the prophet, Joseph Smith, says in this connection: "The moment we revolt at anything which comes from God, the devil takes power." (Compendium, p. 288.) On this ground "apostasy" includes any revolt or departure from a rule or regulation established by the Lord, whether in person or by His appointed servants.

We consider that Moses Thatcher exhibited an apostate spirit and was un-Christianlike in his conduct.

First. In his interview published in the Salt Lake Tribune, which he has admitted to be in the main correct as to his views, though not as to his exact language, he there virtually charges the authorities of the church with bad faith, in declaring, first, that they would not interfere in politics, and next, that they intended to and would

so interfere, and that this "practically annulled their former declaration." He also announced his readiness to champion "the cause imperiled" by the latest declaration of the church authorities.

Second. In giving to the public private correspondence between him and President Lorenzo Snow, which related only to church and quorum matters.

Third. By using language as follows in his reply to President Lorenzo Snow, published in the Tribune and Herald of November 11, 1896:

"Although the judges before whom I am to be arraigned have nearly all expressed an opinion as to the merits of my case; although my accusers are to sit in judgment over me; although a verdict has already been delivered against me and without a hearing."

"In a conversation with President Lorenzo Snow on a train between Salt Lake and Brigham City last Saturday, November 7, I was given the impression that I have absolutely nothing to hope for in any other than a public hearing such as I now request."

Fourth. In writing to President Lorenzo Snow, November 11, 1896, saying:

"I shall not trouble my brethren, therefore, to convene in a special meeting named for Thursday at 2 o'clock p. m. in the historian's office."

And this after the meeting had been called at his special request.

Fifth. By resorting to the quibble that he was "not invited" to the meeting one week later, when he was notified that his case would be considered, and in stating, "since judgment in these matters has been already passed."

Sixth. In charging President Lorenzo Snow with publishing "matter in order to gratify the apparent curiosity of five young men," and describing his (Brother Snow's) explanations as "a bitter and acrimonious communication."

Seventh. By endeavoring to make it appear that the authorities of the church in publishing the Declaration of Principles had contradicted what they had previously announced in the Deseret News and an interview with the Salt Lake Times as to the political liberty of the members of the church. He used this language:

"As I have already stated, I understood the manifesto at the time it was handed me for approval just as I understand it now. While it ostensibly appeared not to restrict the liberties of the people, yet there was no limitation to its application, and in view of the fact that nearly every male member of the church holds some office, and, as there has as yet been no public decision announced as to the officers to be controlled by it, there have arisen disputes and differences of opinions as to its intent. This being true, and the danger being that it could be applied to restrict the liberties of the people, I can not sustain it. I thought then, as I think now, that such a course would be a stultification. I had never dreamed that a condition would arise in my life where I could not serve God fully and yet yield my complete allegiance to my country and to my State. The spirit of the manifesto, as it appealed to me, was in violent antagonism to all I had believed and publicly proclaimed for many years, and I could not, and, so far, have not been able to bring myself to a point where I believed I should yield my political judgment to any set of men, however praiseworthy their intentions.

"When the manifesto was presented to me it appeared to my mind as a command on all to recognize the right of the church authorities to control political concerns; it meant, so far as I was concerned, a recantation of the principles I had for years advocated—a receding from the ground I had occupied during the division movement, and, above all, it made me feel that I would be untrue to myself. I do not claim that I can not be wrong; but with the light I have, the manifesto (applied as its construction will allow, or as it would be interpreted by men whose personal ambitions might control and subvert their sense of right) could be operated to the injury of the State."

Eighth. While protesting against the mingling of religion and politics, he repeatedly thrust his differences with the church into political speeches; as, for instance, in the legislature at the close of the senatorial contest and at a reception given to him at Logan, February 12, 1897, and also a reception to the Idaho legislature at his house February 21, 1897:

"There is room in this new State for all societies and all organizations, but they must confine themselves within proper limits. The men who enacted the supreme law of this State made a covenant with the citizens thereof and with this nation that certain things should be done and performed, and we must keep those covenants. He who desires peace and prosperity for Utah will draw the line sharp between the rights of the citizens and the powers of the State and those of the church. He who votes for the union of the two or the overriding of the church by the State is no friend of Utah. He who invites the intervention of the church in State matters is an enemy to Utah. If we think we can bring peace and continual prosperity to this new State by temporizing with this question we will be mistaken."

* * * * *

"With the same honesty of purpose, but with a much more joyful heart, he had voted with his quorum to grant the Saints entire political freedom. He meant it then: he just as sincerely means it now. He who thinks because we are surrounded by the walls of statehood that it is now safe to unsay that which has been said, to proclaim by word or act that there was any duplicity or double dealing in order to secure deserved concessions, is mistaken. He had not laid aside his office in the church to obtain political honors, but because he saw dire calamity confronting the people if this course were taken. His audience knew the position he had occupied for forty years on the question of liberty, and he could not now with one act expunge that record and stultify the avowed sentiments of a lifetime."

* * * * *

"He spoke of the struggles of the Mormon people in the early days, and dwelt on the relations between the church and the state under a republican form of government. He described the position he had taken on this subject and reviewed some of the circumstances connected with the recent manifesto and his refusal to sign it. He conceded that the church had a right to discipline its members for the infraction of church rules, but it had no right to carry church matters into political affairs."

Ninth. In his own published explanation of the remarks he made in the legislature about a higher allegiance, as follows:

"No legislator can keep his oath of office inviolate, if he or she

allows the officials of an ecclesiastical organization to control his actions within the province of the State.

"The day must come in Utah when he who [being an officer in the State] holds a higher allegiance [to the chiefs of any alien or church organization] than that which [under his solemn oath] belongs to the State, must not be a lawmaker in the halls of the State."

Tenth. In the same article he uses this language:

"Doubtless a great struggle is now inaugurated in Utah, a struggle for freedom, for liberty, for the integrity of free government, for the principles incorporated in American institutions. If the State is to be controlled by the dictation of the church, its sovereignty is lost and its independence is a myth—an iridescent dream. It is a cause of profound gratitude and thankfulness that so many noble and true women and men, chosen as the representatives of a great and earnest people, have stood unflinchingly in the face of intense and unscrupulous opposition day after day for more than half a hundred ballots as exponents and advocates of the principles of Jefferson and Jackson.

"It is only in this spirit that Utah will continue redeemed from a thralldom as obnoxious as that of African slavery or Russian serfdom."

Also this:

"The State demands of its citizens and lawmakers duty well and faithfully performed under oath. The church demands of its members, the same individual, another and different thing. The 'higher allegiance' to which I referred would require obedience to the church. Here is a conflict. Who is responsible? Under our State constitution the church is responsible. That being so, the proper solution of the conflict and difficulty is simple. Let the church vacate the forbidden ground and all will be well.

"I repeat, those holding such 'higher allegiance' should find no place in the halls of the legislature."

Eleventh. The same ideas were elaborated in his speech introducing Mr. Warren Foster at Logan, February 17.

Twelfth. No matter what were his intentions, the effect of his utterances and course on the public mind was that he was fighting the church on a vital question, namely, the political liberties of the members of the church. That he was the champion of freedom as against the chains which the church was forging to bind them; that the church was endeavoring to dominate the State and interfere with its functions, and he was opposing that attempt; that the leaders of the church had promised political liberty to the people in order to gain statehood, and then had changed their policy and promulgated a new rule to dominate them and restrict their political liberties and were thus guilty of double dealing and Punic faith.

This is shown by the letter introduced by Brother Thatcher from the Presbyterian preacher at St. George; the article by the Catholic priest at Denver, introduced by Brother Grant; the letter written by Brother E. G. Woolley at St. George; the rallying around Brother Thatcher of the enemies of the church; the indorsement of the hostile press, and the cheers of the multitude who were antagonistic to the church leaders.

Thirteenth. The letter written by Elder B. H. Roberts to Brother Thatcher shows that Brother Roberts perceived the effect which had

been produced on the public mind by their united course; and in not listening to the appeal thus made and not endeavoring to correct that wrong there was an un-Christian spirit exhibited by Brother Thatcher.

We recognize the fact that Brother Thatcher's bodily afflictions have been great, and that they weakened him in mind to some extent, or rather that they tended to cloud his brain while in the time of his greatest trials. This should be considered when the degree of his wrong is determined.

Brother Thatcher evidently fostered the idea that his brethren of the twelve, or some of them at least, were his enemies and that they desired his injury, to crowd and crush him; and this affected his mind as much, perhaps, as his bodily infirmities. In this he was wrong, as he now appears to perceive.

He also evidently allowed the idea to be magnified in his mind that he was under great obligations to his party, and that these were such as to overshadow his previous obligations to the priesthood and the church. Yet there was nothing in them to prevent Brother Thatcher from consulting with his brethren in reference to matters so important as affecting the welfare of the whole people.

Now as to the Argus matter: Brother Thatcher has cleared himself of the suspicion that he was financially interested in that paper or was responsible for its utterances and cartoons. But he might have repudiated those libels and shameful pictures in some public way, and we think he ought to have done so. The fact that prominent men have refrained from replying to or noticing falsehoods in the public prints reflecting on themselves does not apply to nor does it touch the case of Brother Thatcher's neglecting to repudiate things that reflected upon his brethren and exalted him and created the impression that he favored them. We think he erred in not condemning those things in some public manner.

As to his plea that he sustained the church authorities so strongly that he would have gone to the middle of Africa, if they had whispered to him that this was their wish, the fact that he would not conform to the simple rule which they submitted to him for his signature weighs very heavily in contrast.

But in all Brother Thatcher's departures from the true spirit of a servant of the Lord he was laboring under a misapprehension of the purpose of the church authorities and of the meaning of the rule in the declaration of principles. This was what led him to place them in a false light before the public, and thus bring them into disrepute and cause disaffection and division among the Latter-Day Saints.

The spirit he has now manifested, and his expression of willingness to do all in his power to make right such wrongs as have been brought about, though unintentionally, by his course and writings, commends itself to our consideration. We are glad that light has come to him, and that he can see he was in error when he set up his individual judgment against that of all the leading authorities of the church.

It was a monstrous notion that all those leading brethren were guilty of "double dealing and Punic faith." It was one that should make any man pause and reflect, and ask himself if he himself was not in the wrong and had misjudged his brethren.

We are thankful that this investigation has been conducted in kindness and patience and deliberation, and with a desire to bring forth

the truth. Brother Thatcher had the right to place his case, as he viewed it, before his brethren with as much detail as he desired. Having done so, he has submitted it to this council in a spirit of humility, which is very gratifying to us and, we believe, pleasing to the Lord.

It was also very gratifying to hear Brother Thatcher acknowledge the apostles *as the mouthpieces of the Lord*, clothed with authority as prophets, seers, and revelators, and acknowledge that they were seeking his salvation while probing his ailment to the very bottom. Such acknowledgments are indicative that Brother Thatcher is ready to comply with our decision, which is as follows:

DECISION.

We therefore decide that the charges against Brother Moses Thatcher have been sustained, and that in order to retain his standing and fellowship in the Church of Jesus Christ of Latter-Day Saints he publish a statement to the satisfaction and approval of the presidency of this stake of Zion fully covering the following points, viz:

That in taking the position that the authorities of the church, by issuing the declaration of principles on April 6, 1896, acted in violation of pledges previously given and contrary to what they had published in the Deseret News and given to the Salt Lake Times, he was in error and in the dark.

That he now sees there is no conflict between that declaration and their former utterances in reference to political affairs.

That he was mistaken in conveying the idea that the church authorities desire and intended to unite church and state or to exercise undue influence in political affairs.

That wherein the public have been led to believe through his utterances that the leaders of the church were forging chains to bind the members of the church, an impression was created which he did not intend and does not wish to prevail.

That wherein he has placed the authorities of the church in a false position, however unintentionally, he has done them an injustice, and is ready to make such amends as lie in his power.

That he acknowledges the first presidency and council of the apostles as God's servants, as prophets, seers, and revelators, and their authority as supreme in the church.

That when one man is out of harmony with them in the enunciation of a rule for the guidance of the church he must submit to the rule or be regarded as not in full fellowship.

That no member of the church has the right to oppose and bring into contempt any rule of the church which has been formulated by proper authority, especially when it has been adopted by the church as a body.

That he was in error in stating in his published letter to President Lorenzo Snow:

"During all these weary months, while friends and physicians believed I was on the verge of the grave, I was administered to only once by members of our quorum, although day after day engagements made for that purpose were for reasons unknown to me not kept."

In this connection he may state that one such engagement was not kept, but that this was not an intentional breach of promise.

That in speeches and published letters he has used expressions which had been better unsaid, and that he regrets their utterance.

That he knows of no higher allegiance or more solemn and binding obligations than those of a religious character between a man and his God.

That in speaking of "chains," "oppression," "curtailment of liberty," "malice," "anger," "spite," and "revenge," he did not intend to reflect upon the authorities of the church in any way, and is grieved that his language has been so construed.

That in failing to attend the meeting of the twelve apostles on November 12, and again on November 19, he made a grave mistake, which he now regrets, though he did not see it then in that light.

That he believes his brethren of the apostles have been actuated by a desire for his salvation, and not his destruction, and that though their rebukes have been sharp they were intended to bring him to a sense of his true position.

That wherein he has wronged any of his brethren by word, deed, or improper understanding of their spirit and intent he now asks their forgiveness.

That he has obtained light wherein he was in the dark, and can sustain in his faith and feelings the authorities of the church, its doctrines, rules, and regulations, and desires the fellowship of the church, and humbly asks forgiveness for all his faults.

ANGUS M. CANNON.

JOSEPH E. TAYLOR.

CHARLES W. PENROSE.

BROTHER THATCHER'S INDORSEMENT.

Without qualification or mental reservation I accept this decision in full.

MOSES THATCHER.

HIS LETTER.

SALT LAKE CITY, UTAH,

August 13, 1897.

Presidents ANGUS M. CANNON, JOSEPH E. TAYLOR, and CHARLES W. PENROSE.

DEAR BRETHREN: I have before me your decision, as approved by the high council of the Salt Lake stake of Zion, specifying the conditions by which I may retain my standing and fellowship in the church.

In connection therewith it is, I believe, well understood that all arguments, deductions, and conclusions based upon erroneous premises partake of the nature of the premises themselves.

My case has proven no exception to this general rule. When it came before the council for a hearing, I informed you that I was seeking light and believed that the Lord would manifest it in the findings of that tribunal, having well-defined powers and competent jurisdiction.

So when it determined and definitely decided that there existed no disagreement or conflict as between the former authoritative public

announcements respecting the individual liberty and personal political freedom of the members of the church and the announcements contained in the "declaration of principles" on the same subject (except as defined in the latter^d document wherein certain prominent church officials are required to seek counsel before accepting political office or entering into other engagements that would interfere with obligations already made) there appeared to my mind the light earnestly prayed for, and under the guidance of which I can accept the "declaration of principles" without stultifying myself. In accepting it, as defined by the council, I need violate none of the engagements heretofore entered into under the requirements of party pledges respecting the political independence of the citizen who remains untrammelled as contemplated in the guarantees of the State constitution.

Having repeatedly affirmed willingness to make amends where I have wronged my brethren in public utterances or otherwise while under misapprehensions as to the true situation; and as you have informed me that I may do this by accepting your decision, and as that course would prevent arguments and disputes as to whether or not I had complied in full with all requirements, I make the decision, just as you rendered it, a part of this communication, accept it by attaching my signature, affix it hereto, and authorize you to make it public in any manner you may deem proper.

Here attach the decision.

Very respectfully, your brother in the Gospel.

MOSES THATCHER.

[The decision appears above.]

THE ACCEPTANCE.

SALT LAKE CITY, UTAH, *August 14, 1897.*

We hereby accept the foregoing letter from Moses Thatcher and his indorsement of the decision of the high council on his case given August 13, 1897, as a satisfactory compliance with that decision, and rejoice in the light and spirit of submission which have come to Brother Moses Thatcher and his readiness to yield to the findings of the council and the authority of the presiding officers of the Church of Christ.

ANGUS M. CANNON,

JOSEPH E. TAYLOR,

CHARLES W. PENROSE,

Presidency of the Salt Lake Stake of Zion.

Now, since we know that Moses Thatcher took the judgment of the high council that tried him as conclusive upon him, upon the interpretation of a matter which he, with his acute mind and great intelligence, had interpreted differently, as being conclusive upon him because they made that interpretation—not because it appealed to or satisfied his reason—I think we may fairly assume that the statement of Doctor Talmage, who in one breath is presented to us as an authority and in another as a mere individual, is not to be considered of value as against this official promulgation.

It denies the power of the Senate to compel it to produce marriage and other records of public interest. A custodian of the

records declares that he would not obey the subpoena unless the president of the church permitted him to do so, and that the president, if he saw fit, could refuse until he had appealed to a conference of the church for its consent.

I have already adverted to the claim that has been made that John Nicholson, who testified in that way, was not of sound mind. Let his testimony speak for itself.

[Testimony of John Nicholson (Vol II, p. 239, et seq.).]

"The CHAIRMAN. No; he said the presidency. Whom do you mean by 'him'?"

"Mr. NICHOLSON. Joseph F. Smith.

"The CHAIRMAN. All right; go on.

"Mr. TAYLER. So you went to him and showed him the subpoena, did you?"

"Mr. NICHOLSON. Yes, sir.

"Mr. TAYLER. What did he say when you showed him the subpoena?"

"Mr. NICHOLSON. He did not like it very well.

"Mr. TAYLER. He did not like it?"

"Mr. NICHOLSON. I do not think he did, and neither did I.

"Mr. TAYLER. Neither did you?"

"Mr. NICHOLSON. No; at least I think he did not like it very much.

"Mr. TAYLER. Then what did you say to him about the books that that subpoena seemed to cover?"

"Mr. NICHOLSON. I did not say anything to him.

"Mr. TAYLER. You did not say anything to him?"

"Mr. NICHOLSON. Because he had the thing himself to look at in his hand.

"Mr. TAYLER. What did you say to him about the books you should bring?"

"Mr. NICHOLSON. I just simply said: 'Can I take down this book?'"

"Mr. TAYLER. What book?"

"Mr. NICHOLSON. The book you are examining.

"Mr. TAYLER. Did you have it with you then?"

"Mr. NICHOLSON. I did not have it then, but I told him about it.

"Mr. TAYLER. How did you describe it?"

"Mr. NICHOLSON. That is what I said.

"Mr. TAYLER. What?"

"Mr. NICHOLSON. I told him it was the marriage book.

"Mr. TAYLER. The marriage book?"

"Mr. NICHOLSON. Yes; the book where all the marriages done in the temple were recorded.

"Mr. TAYLER. I know; but there are those other books that you told us you would not bring—that you had not any authority to bring.

"Mr. NICHOLSON. Neither have I.

"Mr. TAYLER. I say why did you not bring them?"

"Mr. NICHOLSON. For that reason.

"Mr. TAYLER. You would have felt that you would have to ask Joseph F. Smith for permission to bring them?"

"Mr. NICHOLSON. He was right near where I was, and I asked him if he had any objections to my taking that book with me.

"Mr. TAYLER. You did not ask him if he had any objection to your taking other marriage records?"

"Mr. NICHOLSON. No; I did not ask him. I thought that was enough.

"Mr. TAYLER. You thought that was enough to respond to this subpoena?"

"Mr. NICHOLSON. Yes, sir; because that is all I could give; because that is the only book of the kind, and the marriages are made conspicuous on the paper that I got, and I do not know anything else except what is in the temple.

"Mr. TAYLER. I do not want you to leave any misapprehension in our minds to what you mean. You do not mean now to assert that there is no book in the temple there containing a record of the marriages save only this Living Sealing A?"

"Mr. NICHOLSON. There?"

"Mr. TAYLER. That is not the only book, is it, in the temple?"

"Mr. NICHOLSON. That is not made in the temple.

"Mr. TAYLER. I am not talking about 'made' in the temple. I am speaking—

"Mr. NICHOLSON. There are other books.

"Mr. TAYLER. Is there such a book there?"

"Mr. NICHOLSON. There are other books there.

"Mr. TAYLER. Recording marriages? Is that right?"

"Mr. NICHOLSON. Yes; I presume there may be some.

"Mr. TAYLER. Do you use the word 'presume' because you are in doubt?"

"Mr. NICHOLSON. Because I am in doubt?"

"Mr. TAYLER. Yes.

"Mr. NICHOLSON. No; I am not in doubt. I will say yes, there are some there.

"The CHAIRMAN. Just one word. Who has the authority to permit those books to be brought to the committee?"

"Mr. NICHOLSON. The whole thing belongs to the church. There is a head to it.

"The CHAIRMAN. Who has authority to permit those books to be brought here?"

"Mr. NICHOLSON. Who has the authority? Well, I suppose that those who are at the head of affairs.

"The CHAIRMAN. Can not you answer my question directly?"

"Mr. NICHOLSON. Yes, sir.

"The CHAIRMAN. Has Joseph F. Smith the authority and the power to have these books brought here?"

"Mr. NICHOLSON. I will tell you why I rather do not like to say so.

"The CHAIRMAN. Let us have it.

"Mr. NICHOLSON. Can I not make an explanation?"

"Mr. WORTHINGTON. Mr. Chairman, he ought not to be required to answer the question. It is a question of law.

"The CHAIRMAN. It is a very simple question. Do you know who has authority to take those books out of the temple and bring them to the committee?"

"Mr. NICHOLSON. I certainly think that the head of the church would, but—

"The CHAIRMAN. The head of the church?"

"Mr. NICHOLSON. But there is this, yet. There is a law in relation

to the church—that is, our law—and that is that all these things of importance shall be submitted to the church; that is, shall be voted on by the church. They might bring that law in.

"The CHAIRMAN. If you could bring this book, why can you not bring the other?"

"Mr. NICHOLSON. Because I have not the authority.

"The CHAIRMAN. Who has?"

"Mr. NICHOLSON. I have told you as near as I can these two facts, that there is a presidency of this institution.

"The CHAIRMAN. Has the president the authority?"

"Mr. NICHOLSON. They have, but it is modified by the statement in the revelation.

"The CHAIRMAN. I have no further questions.

"Mr. WORTHINGTON. I have a question or two to ask the witness when I have an opportunity.

"Mr. TAYLER. I am not through.

"(To the witness.) So you think that before these very important books could be brought here you might feel it necessary to submit the question to the church before you would obey the subpoena?"

"Mr. NICHOLSON. There is a part in the revelation that says that matters of importance shall be submitted to the church.

"Mr. TAYLER. So that if it was deemed of great importance, then, before you would feel that you could bring those books which you have not brought you would feel that you ought to submit it to the people of the church to decide whether they should be sent or not. Is that right?"

"Mr. NICHOLSON. Of course, Mr. Tayler, it would not be me to do it.

"Mr. TAYLER. I do not mean you. I mean the president of the church.

"Mr. NICHOLSON. Well, I do not know about that. You see, I do not know whether they would do it or not.

"Mr. TAYLER. I want to understand you and not misinterpret or mislead you.

"Mr. NICHOLSON. I believe that.

"Mr. TAYLER. If you were called upon by this committee now to return to your home and bring, or send by some messenger whom you could trust, all the records which are in the temple there pertaining to the subject of marriage, or any other subject which the committee might order, you would first go to the first president and ask him, would you not, about it, as to what you should do in respect of that order?"

"Mr. NICHOLSON. I presume that is the proper way to do, yes; and I would.

"Mr. TAYLER. I am not asking about the proper way.

"Mr. NICHOLSON. I would say to them—

"Mr. TAYLER. Let me understand you, Mr. Nicholson. We will assume that you were in a state of health that would permit you to travel back and forth; and that is excluded from the consideration of the question. Suppose the committee should say to you, or give to you an order, issued by the Senate of the United States, directing you to proceed at once to Utah, as the recorder of the temple, and bring with you the records that are there in the temple, in that office where you four men work. What would you do?"

"Mr. NICHOLSON. I should tell them——

"Mr. TAYLER. You would tell him?

"Mr. NICHOLSON. Tell them. There is more than one president.

"Mr. TAYLER. You mean the first presidency or the apostles—
which?

"Mr. NICHOLSON. Yes.

"Mr. TAYLER. How is it?

"Mr. NICHOLSON. The presidency. Of course they are at the top.

"Mr. TAYLER. That is the first thing you would do. Before proceeding to bring these books you would see the first presidency. That is right?

"Mr. NICHOLSON. No.

"Mr. TAYLER. What?

"Mr. NICHOLSON. No.

"Mr. TAYLER. Then what?

"Mr. NICHOLSON. I should go home and see my folks mighty quick. I have a wife in a very dangerous condition. I would go to them and attend to that afterwards.

"Mr. TAYLER. We are pleased to note the presence of a playful turn.

"Mr. NICHOLSON. Would you not do the same thing?

"Mr. TAYLER. I think I should do the same thing.

"Mr. NICHOLSON. So would I.

"Mr. TAYLER. But before going to the place where these records are kept and packing them up and bringing them with you to Washington, in obedience to the order of the Senate, you would go and ask the first presidency if it was proper for you to do so?

"Mr. NICHOLSON. Yes, sir.

"Mr. TAYLER. And whether the first presidency would deem it necessary to decide the question yes or no, or whether they would appeal to the assembly or to the church, you do not know, of course?

"Mr. NICHOLSON. I do not know.

"Mr. TAYLER. If the first presidency said, no, you were not to bring the books here, of course you would not bring them, would you?

"Mr. NICHOLSON. I would not.

"Mr. TAYLER. And if the Senate should send the Sergeant-at-Arms of the Senate and arrest you and order you to bring them with you, you would still refuse to bring them unless the first presidency told you to?

"Mr. NICHOLSON. Yes, sir."

A typical instance of the control exercised by church authorities in mere temporal affairs appears in two cases at Brigham City, occurring within the last year, wherein, in one case, the church authorities forbade certain church members the right to build an amusement hall, on the claim that the church had the exclusive right to deal with the subject of popular amusements. The language of the witness was that it was "rulable" that the church should have control of the matter of popular, innocent, secular, nonreligious amusements. Now, this was a dancing hall, and in some communions dancing is said to be quite nonreligious and improper, and therefore a thing that the church ought not to have or permit at all.

[Testimony of Oleen N. Stohl (Vol. III, p. 330 et seq.).]

" Mr. TAYLER. How did your council, the president of the stake and you two counselors, come to get into conflict with the young men who built this pavilion?

" Mr. STOHL. Why, the young men who built the pavilion came to the president of the stake and presented a proposition to him and asked his wishes in relation to that matter.

" Mr. TAYLER. That is, about building this?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. What did the president of the stake have to do with it?

" Mr. STOHL. Why, he had nothing to do with it, only that they came to him and inquired about it.

" Mr. TAYLER. That is, they inquired whether they might build a building or not?

" Mr. STOHL. Well, the proposition might be a little clearer if I stated that it has been rulable in some parts of our stake that the amusements were conducted under the direction of the authorities of the ward. These young men thoroughly understood that situation, and, desiring to put up another hall, they went and presented the matter to him, and inquired in relation to his wishes on that matter.

" Mr. TAYLER. Exactly; and they learned his wishes, did they?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. And did not comply with them?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Did they?

" Mr. STOHL. They did not comply with them.

" Mr. TAYLER. That is, before they built it?

" Mr. STOHL. Well, the matter went further and was considered by the high council, those brethren being there, the young men coming there and desiring to get the views of the high council, and the high council in the interests of peace and harmony in the city there counseled them not to erect it.

" Mr. TAYLER. Yes.

" Mr. STOHL. Then, in opposition to that, they erected the dancing academy.

" Mr. TAYLER. Exactly; and the high council resented that?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Because they had not taken counsel on the subject?

" Mr. STOHL. Yes, sir; they did not carry out the counsel that was given them.

" Mr. TAYLER. Which was given in good faith, for the purpose of preventing trouble in the community. Is that right?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. You had no personal interest in this dance hall, either of them, had you?

" Mr. STOHL. No, sir.

" Mr. TAYLER. President Kelly had no interest in the opera house, had he?

" Mr. STOHL. No, sir.

" Mr. TAYLER. And personally it did not make any difference to him whether there was any competition or not?

"Mr. STOHL. Not individually; no, sir.

"Mr. TAYLER. It was only rulable, as you say, that the church authorities should have charge of the amusement places?

"Mr. STOHL. Yes, sir; they are very much interested in furnishing proper amusement for young people.

"Mr. TAYLER. Then at a certain stage in the proceedings this notice was sent out by Mr. Kelly and you two—Mr. Kelly, Mr. Snow, and yourself—under date of August 30, 1903:

.. *To the Latter-Day Saints of Box Elder Stake of Zion:*

"In view of the statement made and published by Elders Chris Christensen and C. O. Anderson regarding the summer pavilion matter, we hereby withdraw our objection to the saints patronizing the pavilion as long as proper decorum is preserved in and about said pavilion."

"Was that the same subject or another subject?

"Mr. STOHL. That was part of the subject; yes, sir.

"Mr. TAYLER. Then did you have trouble about that with them?

"Mr. STOHL. Yes, sir.

"Mr. TAYLER. In the winter?

"Mr. STOHL. Yes, sir.

"Mr. TAYLER. What then occurred?

"Mr. STOHL. The trouble came from their side of the proposition. Some of the bishops of the ward held there that in the interest of the young people it was proper for the local authorities to direct in the amusements, and that matter was submitted to some of the officers in the wards and these gentlemen took exception to that point.

"Mr. TAYLER. It was finally compromised, was it not, by their paying something, or agreeing to pay something?

"Mr. STOHL. Only in this way: When the settlement was entered into it was decided that the opera house should be closed—that is, the house that belonged to the four wards—and all the patronage should be thrown to the amusement hall of these individuals, and in lieu of closing the opera house they were to pay them a part of their net earnings.

* * * * *

"Mr. TAYLER. I have found what I wanted to look at. It is printed at page 810 of the record. Do you remember your high council making this order:

"Inasmuch as Brother C. O. Anderson appeared on behalf of himself and Brother Chris Christensen in regard to the dancing pavilion which they are erecting, and presented certain propositions before the council"—

"That is, your high council—

"the council, after due consideration, decided that they could not rescind its former decision given on this question. It was also the advice and counsel of the meeting that these brothers cease their work on said pavilion, and that they do not use it for dancing purposes, but that said pavilion be removed and the material in its construction be disposed of."

"Mr. STOHL. I think there was something to that effect; yes, sir.

" Mr. TAYLER. And then later on, which perhaps is what you have said yourself, the president stated :

" ' They [that is, these people who were building this new hall] ought to have abided by the counsel that was given them and avoided the controversy which has arisen out of their disobedience to counsel.'

" That is practically what you said a while ago, is it not ?

" Mr. STOHL. I think so.

" Mr. TAYLER. And then that last February you yourself stated :

" ' The authorities of this stake must dictate and control, and members of the church must take a stand one way or the other. If you bishops have any officers who will not carry out " counsel," we want you to drop them, and even members of the high council will be dropped. The church has authority in this matter. This is no longer an opera-house fight, but a church fight. The new dancing hall (the academy of music and dancing) has been built in direct opposition to this authority.'

" Did you say that in substance ?

" Mr. STOHL. I do not remember that I said as fully as that. I think there is something more added than I said.

" Mr. TAYLER. That is the substance of it, is it ?

" Mr. STOHL. But it was referring to this policy that was adopted there in relation to the amusements, and the proposition was on the officers sustaining that policy.

" Mr. TAYLER. And that finally this is what occurred, and you all signed an agreement—that is to say, the high council and a committee of the young men interested in this dancing academy—to this effect :

" ' OFFICE OF THE PRESIDENCY OF THE

" ' BOX ELDER STAKE OF ZION.

" ' July 30, 1904.

" ' We, the undersigned, mutually agree that the dancing in the Box Elder Academy of Music and Dancing be conducted under the direction of the stake amusement committee, appointed by the presidency of the stake, and that the presidency of the stake will encourage the patronage of the people to that institution under proper rules and regulations.

" ' And the directors of the Box Elder Academy of Music and Dancing agree that 25 per cent of the net earnings be turned into the stake treasury to be disbursed as they see fit for the benefit of the church in the Box Elder Stake of Zion.'

" Was not that the final agreement that you entered into with these young men ?

" Mr. STOHL. Yes, sir ; but that was not signed by the high council.

" Mr. TAYLER. It was signed by Charles Kelly, Lucious A. Snow, Oleen N. Stohl, stake presidency.

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Not by the high council ; no, but by the stake presidency ?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. That is all."

This proceeding was, as shown by official communications that are in the record here, justified by the first presidency, and the young men who undertook to build the amusement hall were finally compelled by

the power of the church to enter into an agreement, which I described a few moments ago.

And so as to the other case, as to the electric-light plant, where the city council repaired to the official residence of the high council of the stake and, learning its wish, approved it.

[Testimony of Oleen N. Stohl. (Vol. III, pp. 326-327.)]

" Mr. TAYLER. But you are a councilor to the president of the stake?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. And you live in Brigham City?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Where also the president lives?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Now, there was a considerable discussion over the question of an electric-light plant there?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. Whether it should be owned by the municipality or by private individuals? Was that the nature of the controversy?

" Mr. STOHL. No, sir.

" Mr. TAYLER. What was it?

" Mr. STOHL. The nature of the controversy came over an agitation of troubles that existed between the city and a private company.

" Mr. TAYLER. Between the city and a private company?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. And then was there some threat that the city would put in its own plant?

" Mr. STOHL. No, sir; the city had already decided to do that.

" Mr. TAYLER. Did it put it in?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. The high council, or the council rather—I mean the ecclesiastical council, Kelly, yourself, and your associate—did take up this subject, did you not?

" Mr. STOHL. You mean this electric-light matter?

" Mr. TAYLER. Yes.

" Mr. STOHL. Well, it came before all parties concerned, and the high council was in it.

" Mr. TAYLER. It came before the high council?

" Mr. STOHL. No, sir; the two contending parties and the high council together—

" Mr. TAYLER. And the high council together?

" Mr. STOHL. Considered the matter; yes, sir.

" Mr. TAYLER. How often did the high council sit with the contending parties?

" Mr. STOHL. Only once.

" Mr. TAYLER. That was with the city council, was it?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. And who else?

" Mr. STOHL. And with the parties who owned the private electric-light plant.

" Mr. TAYLER. Where did you meet?

" Mr. STOHL. We met at the high council office, where the high council usually have their meetings.

" Mr. TAYLER. What time in the day?

" Mr. STOHL. We met in the evening.

" Mr. TAYLER. Was all the city council there?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. And all of the other parties were there?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. In this ecclesiastical and civil council you settled this electric-light question for the people, did you?

" Mr. STOHL. No, sir.

" Mr. TAYLER. What did you do?

" Mr. STOHL. The method of settling the dispute between the private company and the city was agreed upon at that point.

" Mr. TAYLER. Was agreed upon at that point?

" Mr. STOHL. At that place; yes, sir.

" Mr. TAYLER. How did your high council come to get into this controversy? Did the city council ask it?

" Mr. STOHL. No, sir.

" Mr. TAYLER. Did the private corporation ask it?

" Mr. STOHL. One of them; yes, sir.

" Mr. TAYLER. Was that enough to do it?

" Mr. STOHL. Why, it was simply a suggestion from him that it would be well to get together to adjudicate the trouble that was existing.

" Mr. TAYLER. To adjudicate it? And so you got together and adjudicated, did you?

" Mr. STOHL. We attempted to, but we did not do it.

" Mr. TAYLER. You did not?

" Mr. STOHL. No, sir.

" Mr. TAYLER. Did you not get it settled?

" Mr. STOHL. No, sir.

" Mr. TAYLER. I thought you said it was settled—that you did get it settled?

" Mr. STOHL. Not that matter; no, sir.

" Mr. TAYLER. So you did succeed in getting this matter settled, did you not?

" Mr. STOHL. We simply agreed upon a method or a means of arbitrating the matter, subject to the wishes of the citizens.

" Mr. TAYLER. Precisely. That you did agree upon that night?

" Mr. STOHL. That far; yes, sir.

" Mr. TAYLER. And then it was carried out, was it not? The agreement was carried out? Arbitration did not occur?

" Mr. STOHL. Yes, sir; the arbitration occurred.

" Mr. TAYLER. And the matter was all settled up amicably?

" Mr. STOHL. No, sir; it was refused by the citizens.

" Mr. TAYLER. They did not stand behind the high council. Is that right?

" Mr. STOHL. Yes, sir.

" Mr. TAYLER. You made a speech on the subject, did you not?

" Mr. STOHL. I spoke in a mass meeting that was held in relation to that matter; yes, sir.

" Mr. TAYLER. And it created a good deal of disturbance, did it not?

" Mr. STOHL. Which, my speech?

" Mr. TAYLER. Well, yes; the speech, too.

" Mr. STOHL. I think not.

"Mr. TAYLER. Let us see about that. You say this:

"It went on a little further, the presidency of the stake learning that some high councilors did not seem to share our views in this matter. We called the high council together and presented the proposition to them as we have presented it to you up to this point. The high council indorsed what we had done and accepted of our work as being proper and in keeping with our position as citizens, as well as out position ecclesiastically."

"Did you say that in substance in that speech?

"Mr. STOHL. Well, I can not tell. I do not know what precedes that."

"Mr. TAYLER. Then somebody in the audience said:

"Is that not mixing up church and state?"

"Do you remember somebody saying that?"

"Mr. STOHL. I remember an interruption there; yes, sir."

"Mr. TAYLER. Of that kind?"

"Mr. STOHL. Yes, sir."

"Mr. TAYLER. And you said:

"How is that?"

"And by the same gentleman:

"Is that not mixing church and state?"

"And you went on:

"I will go on and finish my statement and let the meeting judge that matter for themselves."

"Then:

"Cries of the audience: Sit down; shut up; throw him out; let the man talk; hisses in the gallery."

"Is that correct?"

"Mr. STOHL. No, sir; I do not remember it to that extent."

"Mr. TAYLER. Do you not remember? You asked if your speech had made any disturbance, and my question is in answer to that question. The disturbance was not what I had in mind, but did not a disturbance of that kind occur?"

"Mr. STOHL. You mean that somebody spoke up that way?"

"Mr. TAYLER. Yes; that way—'Sit down; shut up; throw him out; let the man talk; hisses in the gallery?'"

"Mr. STOHL. I do not remember that much."

"Mr. TAYLER. And that the chairman said:

"Mr. Stohl has the floor. Wait, Mr. Olsen, until Mr. Stohl gets through."

"Do you remember Mr. Olsen?"

"Mr. STOHL. I do."

"Mr. TAYLER. And did he interrupt in some polite way?"

"Mr. STOHL. He was the man; yes, sir."

"Mr. TAYLER. And Mr. Olsen said:

"I just simply wish to state——"

"But the audience did not care for any statement from the gentleman. Cries of sit down, shut up, were again heard."

"By the chair: Proceed. Mr. Stohl has the floor."

"Is that right?"

"Mr. STOHL. I think he said that; yes, sir."

"Mr. TAYLER. And you went on and said a good deal more that I will, perhaps, ask you about in a moment. Then did you go on and say, after something that you had said resulted in applause, and pro-

longed applause—you had applause frequently during the speech, did you not?

“MR. STOHL. I do not remember.

“MR. TAYLER. You went on and said this:

“In that high council meeting Peter F. Madson stated that he had talked with parties interested in this matter and that they all talked like reasonable men.”

“Do you remember something like that?

“MR. STOHL. I think I do; yes, sir.”

In the next place, it denies the validity and application of laws to its members, if such laws relate to polygamous cohabitation. Apostle John Henry Smith, said to be the ablest, and certainly one of the most powerful men in the church, specifically declared on the witness stand that he knew that the law of the land was against polygamous cohabitation, but that he intended to continue to violate it, because neither the law of the land nor of the church could take away obligations and contracts entered into with the approval of God and relieve him as between him and his God; that his plural marriage was contracted with the approval of God, and that no law of the land could dissolve or interfere with it. Those were his words.

[Testimony of John Henry Smith (Vol. II, p. 286.)]

“MR. TAYLER. Do you remember the interpretation put upon it by Wilford Woodruff and the other leaders of the church?

“MR. SMITH. Yes, sir.

“MR. TAYLER. And the testimony of Joseph F. Smith respecting the meaning of the manifesto?

“MR. SMITH. Yes, sir.

“MR. TAYLER. Its application as well to polygamous cohabitation as to entering into new polygamous relations?

“MR. SMITH. Yes, sir.

“MR. TAYLER. You subscribe to their view of it, do you?

“MR. SMITH. Yes, sir.

“MR. TAYLER. But deny it in the practice?

“MR. SMITH. My position in regard to that matter, Mr. Tayler, is simply this, that nobody could take from me my family; that I was responsible to God myself, and that I must take the consequences of my countrymen punishing me if they saw fit to do so. That has been my position in regard to that matter.

“MR. TAYLER. Of course, you know now that your plural wife was taken after there was a law forbidding it?

“MR. SMITH. I knew it full well at the time, but with this fixed idea in my own heart, that the first amendment to the Constitution having never been passed upon in regard to that question, it was a question in abeyance, and that I expected, when the courts of this country decided it, that I could not be interfered with in the practice of that principle or in the maintenance of that wife.

“MR. TAYLER. So that you denied and still deny the validity of that law as applied to you?

“MR. SMITH. No, sir; I do not deny it. The law has been passed upon. The court has decided that.

“MR. TAYLER. But you say you propose to—

“MR. SMITH. I held that when I married that woman.

"Mr. TAYLER. You propose to continue the practice that you then started, upon the theory that there is a higher obligation upon you than the obligation to obey the law?"

"Mr. SMITH. Yes; I must suffer the consequences, if my countrymen see fit to punish me."

[Testimony of Apostle John Henry Smith (Vol. II, p. 310).]

"Senator DUBOIS. The manifesto was issued in 1890, was it not?"

"Mr. SMITH. I think so.

"Senator DUBOIS. And sustained by the Mormon people, pledging to the people of the United States that polygamy and polygamious living should cease, and dictation in political affairs should cease? And after that two pleas for amnesty were sent to the President, those pleas for amnesty being signed by you among others. All of those acts on the part of your church were prior to 1892, were they not?"

"Mr. SMITH. I presume they were. My memory does not tell of dates. You may have them in your mind. I have them not in mine.

"Senator DUBOIS. Was not the argument put forth by myself and others that inasmuch as the church had abandoned polygamy and polygamious living, and had ceased dictation in politics, the necessity for the disfranchisement of the Mormons had passed?"

"Mr. SMITH. I believe that was the nature of your communication to the convention.

"Senator DUBOIS. Were we not assured by you and other leaders that the manifesto and the pleas for amnesty would be lived up to in good faith?"

"Mr. SMITH. I think I have made all manner of assurances in that matter, so far as I could.

"Senator DUBOIS. I had been elected to a six-year term in the United States Senate immediately prior to this convention, had I not?"

"Mr. SMITH. I believe so.

"Mr. TAYLER. The Supreme Court, in 1878, passed upon the question which arose between the Mormon Church and the country as to whether or not the law forbidding bigamy or polygamy violated the right of the Mormons freely to worship God according to the dictates of their own conscience.

"Mr. SMITH. There were several laws.

"Mr. TAYLER. I know there were several laws.

"Mr. SMITH. And several passages upon laws by the Supreme Court. But the full question, I think, in all its bearings, has never yet been fully touched.

"Mr. TAYLER. It has not?"

"Mr. SMITH. The lawyers may know. I think not.

"Mr. TAYLER. As an apostle of the Mormon Church, in what aspect do you understand that the Supreme Court has not fully settled the religious rights of the Mormon people?"

"Mr. SMITH. My own thought—it may not be a correct one—is that the question itself in all its bearings has never been settled—there are gentlemen here who may be able to tell—before the Supreme Court, so as to pass upon its religious merits.

"Mr. TAYLER. But this is not a question of law that I am asking you. It is a question that you, as a layman, so far as the law is concerned, and as a high official of the Mormon Church would know

about. What is it that you and your people understand is not settled?

"Mr. SMITH. My people understand that it is virtually determined, and have accepted the situation so far as that is concerned, and yet there are questions in regard to that matter, even in the minds of many men.

"Mr. TAYLER. Now; what questions?

"Mr. SMITH. The question as to religious liberty, whether it has been infringed.

"The CHAIRMAN. As to what?

"Mr. SMITH. The question as to religious liberty, whether in our case it has been infringed. But we have accepted the situation absolutely, Mr. Chairman, and have made our efforts, in all honor, before God and man, so far as that is concerned, to fulfill our obligations to the best of our ability.

"Mr. TAYLER. But you deem the question still unsettled?

"Mr. SMITH. It would hardly be correct, Mr. Tayler, for me to say that, and yet in my soul I feel that.

"Mr. TAYLER. And until it is settled, however, I suppose it is just to you to say that you propose to abide by such settlement as has been made of it?

"Mr. SMITH. Yes, sir; carrying my own responsibility as bearing upon my own family.

"Mr. TAYLER. Exactly. That is to say, in your own case, you understand that the rule of the church is against polygamous cohabitation, do you?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. And the law of the land is against it?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. But you propose to continue to violate the law of the land and the rule of the church as a purely personal matter with yourself and to take such consequences as may be imposed upon you for it?

"Mr. SMITH. Neither the law of the land nor of church can take away obligations and contracts and relieve me of them as made between me and my God.

"Mr. TAYLER. Precisely. And that is the interpretation that you and the apostles put upon those relations?

"Mr. SMITH. So far as all of those obligations coming up to the date of the manifesto, formed previously:—

"Mr. TAYLER. And formed previously?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. That the relation that you contracted, and others like you, prior to the manifesto, to your several wives, was a relation which you contracted with the approval of God?

"Mr. SMITH. That is it.

"Mr. TAYLER. And that no law of the land can dissolve that?

"Mr. SMITH. No, sir.

"Mr. TAYLER. Or interfere with that?

"Mr. SMITH. No, sir.

"Mr. TAYLER. You recall—you must have known at the time, I assume, since you were elected an apostle in 1880—the decision of the Supreme Court in the Reynolds case. Of course you knew of the Reynolds case, did you not?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. You were in this country some time after 1881, before you went on your mission?

" Mr. SMITH. I was in this country in 1881.

" Mr. TAYLER. You were elected to the legislature of Utah, I think, in 1881?

" Mr. SMITH. I think so.

" Mr. TAYLER. The year previous to that you had been elected an apostle?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. And you were, I think you said, familiar with the Reynolds case?

" Mr. SMITH. I was not familiar with it. That would be stating an untruth.

" Mr. TAYLER. I do not mean with its details, but you knew, did you not, that that was the first great case in which the question was raised as to the right of the General Government to interfere in any way with the religious rights of the Mormon Church?

" Mr. SMITH. I think that was the first case.

" Mr. TAYLER. You remember that in 1882, or subsequent to the decision of the Reynolds case, as we all know, what is called the Edmunds Act was passed?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. That imposed more serious penalties?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. And provided the machinery for the execution of the law, and also forbade polygamous cohabitation, which the previous law, I believe, had not touched. That is correct, is it not?

" Mr. SMITH. I believe that is the case.

" Mr. TAYLER. I do not want to lead you into——

" Mr. SMITH. There are two laws, and I am a little mixed. One was the Edmunds-Tucker law; the other was the Edmunds law.

" Mr. TAYLER. I merely put it in here so that we may understand what we are talking about. The Edmunds Act, passed in 1882, provided certain penalties, and the Edmunds-Tucker law was passed in 1887. In so far as it related to the subject of polygamy and polygamous cohabitation I think it is fair to say that it merely contained a little more effective machinery for enforcing the law.

" Now, the Reynolds case, however, was prosecuted not under the Edmunds Act at all, as you doubtless know, but under the old act of 1862, which is very short, and I will read the provision that the court had before it.

" Section 5352 of the Revised Statutes, passed, I am sure, in 1862, although it is not so stated here, reads as follows:

" ' Every person having a husband or wife living, who marries another, whether married or single, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of bigamy and shall be punished by a fine of not more than \$500 and by imprisonment for a term of not more than five years.'

" That was the law enacted in 1862, and between the time that that law was enacted and at least until the time the Supreme Court rendered the decision in the Reynolds case you and all others like you believed that in so far as it interfered with the religious propriety

of a Mormon taking a second or other wife it was in violation of the Constitution of the United States?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. You sincerely believed that it was an infraction of the Constitution to interfere thus with your religious belief?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. Now; you doubtless remember that in the Reynolds case the Supreme Court overthrew that contention, did it not?

" Mr. SMITH. As affecting the question of bigamy?

" Mr. TAYLER. As affecting the question of polygamy, yes.

" Mr. WORTHINGTON. He said as affecting the question of bigamy.

" Mr. TAYLER. Oh, as affecting the question of bigamy?

" Mr. WORTHINGTON. A very different thing.

" Mr. SMITH. Our—

" Mr. TAYLER. Go on.

" Mr. SMITH. I thought you were going to ask another question.

" Mr. WORTHINGTON. The act of 1862 applied to bigamy only, not to polygamy.

" Mr. TAYLER. You discover a distinction there that my mind is too weary this morning to perceive.

" Mr. WORTHINGTON. It is quite a distinction.

" Mr. SMITH. Our contention in regard to that was that bigamy and polygamy were two different offenses in every way; that the essence of bigamy was that a man deceived two women, he deceived his wife and another, the woman that he married. In our case a man married a second wife with the consent of his wife, and that on that ground the statute did not affect our case.

" Mr. TAYLER. Undoubtedly, prior to 1878; I agree with you that was your contention, but the Supreme Court did not hold in such way.

" Mr. SMITH. No, sir; I do not think it did.

" Mr. TAYLER. Did not the Supreme Court hold this way: 'A party's religious belief can not be accepted as a justification for his committing an overt act made criminal by the law of the land?'

" Mr. SMITH. Yes.

" Mr. TAYLER (reading):

" 'Where, therefore, the prisoner knowing that his wife was living married again in Utah, and, when indicted and tried therefor, set up that the church whereto he belonged enjoined upon its male members to practice polygamy, and that he, with the sanction of the recognized authorities of the church, and by a ceremony performed pursuant to its doctrines, did marry again—'

" The court held—

" 'That the court properly refused to charge the jury that he was entitled to an acquittal, although they should find that he had contracted such second marriage pursuant to, and in conformity with, what he believed at the time to be a religious duty.'

" That is what you understand to be the purport of the decision in the Reynolds case?

" Mr. SMITH. Yes, sir.

" Mr. TAYLER. Now, as a matter of fact, Mr. Smith, your people did not accept that judicial determination of the Supreme Court, did they—

" Mr. SMITH. Not until there were many other contentions—

"Mr. TAYLER. As settling the question of the right of a man, if his church permitted it, to take plural wives—one or more?

"Mr. SMITH. There was considerable contention afterwards in regard to that matter; just what length I do not remember now.

"Mr. TAYLER. And they continued to do that until the manifesto declared that the law commanding or enjoining the taking of plural wives was suspended. Is that right?

"Mr. SMITH. Yes, sir; I think that is correct.

"Mr. TAYLER. And you did not recognize that there was any control over your taking plural wives until the manifesto was issued. Is that right?

"Mr. SMITH. That is correct, I guess.

"Mr. TAYLER. And prior to the issue of the manifesto you deemed it lawful and proper to take plural wives, although you yourself did not take any after 1880?

"Mr. WORTHINGTON. What do you mean by 'lawful'—lawful according to the law of the land, or the law of the church?

"Mr. TAYLER. Yes; lawful according to the law of the land.

"Mr. SMITH. I should say yes.

"Mr. TAYLER. That is all."

President Smith himself last June publicly declared to the assembled thousands of his people that he would be eternally damned if he was not true to his several wives. What he meant by being true to his wives is obvious and not to be contradicted.

[Testimony of J. M. Buckley (Vol. II, p. 23).]

"I dare not and can not cast aside those to whom God in his infinite wisdom has joined me for time and for eternity. I dare not and will not cast aside the mothers of my children. If I did, I should forfeit all the blessings that God will bestow upon those who are faithful to their trust. If I did, I should be forever damned and be forever deprived of the companionship of God, my wives, my sons, my daughters, and all those most dear to me throughout eternity.

"I am not a coward or a craven thing. I may be driven to the last extremity, but I would not shrink from exile, imprisonment, or any earthly hardship that might come to me in fulfilling my duty to God and man. When it comes, however, to throwing aside all hope of future happiness, all expectation of continued union with those I love, I will not make such a sacrifice. I dare not and can not. I am not prepared to forfeit an eternal inheritance by yielding to the customs of the world. I can not, I dare not risk eternal damnation by putting away the responsibilities which God has placed upon me. But rather I will be true to my duty, true to my trust, true to my God, my wives, and my children."

"In conclusion he assured the people that the Mormon system is not a system of adultery nor of concubinage, but a system of marriage, and pleaded with Latter-Day Saints to enter into it in the manner appointed by God, and said the blessings of life and posterity would result. He pleaded also for the purity of the home, and affirmed that there are none more pure in all the earth than the homes of the Latter-Day Saints. He concluded with the passage, 'Who-soever looketh on a woman to lust after her hath committed adultery

with her already in his heart,' and called upon the people to avoid adultery as they would a pestilence."

It has been defined here over and over again. He meant that he was to stand to all of them in the relation of a husband to the fullest extent. The address that he delivered to the assembled 10,000 of his people was not encouraging violation of the law, was not countenancing violation of the law, was not conniving at violation of the law. It was commanding violation of the law under the penalty of eternal damnation. It was as if he had stood before that great concourse of his people and said to the 10,000 of them: "Brethren, there is a subject near to my heart. Recently I have testified before a committee of the United States Senate, where I told them boldly and frankly and truthfully what my status was respecting the plural wives whom I married. I want to say to you who are here present who, like me, have plural wives, I am the representative of God on earth. I am His vice-gerent. I am the mouthpiece of God. I am prophet, seer, and revelator. I have all the authority that Joseph Smith and the other presidents of the church had, down the long line of those great men, and I say to you, with all the authority that is laid upon me, if you are not true to your wives, if you obey the customs of the world respecting your relation to your plural wives, you will be eternally damned; you will be denied the companionship of your friends; you will be denied the companionship of God."

No whisper, no syllable, has sprung from the lips of Reed Smoot reprobating that outrageous demand upon his people that they continue to defy the law of the land.

This church owns and publishes, and one of its apostles edits, the *Deseret News*, a secular newspaper, the organ of the church, which daily instructs the people in the rule of obedience and in the matter of taking counsel.

The hierarchy of which Reed Smoot is a life member and vacancies in which are filled by the survivors—not by anybody else—encourages, countenances, and connives at polygamy and polygamous living.

Polygamous marriages have been unlawful in Utah at least ever since 1862, if the common law spread over Utah, and I know of no reason why it did not. It was unlawful prior to the passage of the law of 1862, and polygamous cohabitation has been prohibited since 1882. According to the Mormon Church and people, however, neither of them became unlawful, if at all, until the Woodruff revelation and manifesto in 1890.

It has been shown that Apostle Brigham Young, jr., performed a plural marriage ceremony about 1896.

[Testimony of Mrs. Kennedy (Vol. I. p. 389.)]

"Mrs. KENNEDY. I am 26 years old this coming June.

"Mr. TAYLER. How long did you live at Diaz, Mexico?

"Mrs. KENNEDY. About seven or eight years, I think.

"Mr. TAYLER. Until you were about 17 years old?

"Mrs. KENNEDY. Yes, sir.

"Mr. TAYLER. Is Diaz a Mormon community or colony?

"Mrs. KENNEDY. Yes, sir; strictly Mormons.

"Mr. TAYLER. And is plural marriage generally practiced there, or was it at that time?

- " Mrs. KENNEDY. I believe so; yes, sir.
- " Mr. TAYLER. When you were about 17 years old, were you married?
- " Mrs. KENNEDY. Yes, sir.
- " Mr. TAYLER. To whom were you married?
- " Mrs. KENNEDY. James Francis Johnson.
- " Mr. TAYLER. Where was his home when you married him?
- " Mrs. KENNEDY. At Mesa, Maricopa County, Ariz.
- " Mr. TAYLER. Was he at the time you married him a married man?
- " Mrs. KENNEDY. Yes, sir.
- " Mr. TAYLER. Did you know his wife: that is, did you meet his wife?
- " Mrs. KENNEDY. Yes, sir.
- " Mr. TAYLER. His first wife, I mean?
- " Mrs. KENNEDY. Yes, sir.
- " Mr. TAYLER. Where was she when you saw her first?
- " Mrs. KENNEDY. At Diaz, Mexico.
- " Mr. TAYLER. Was the subject of your marrying her husband talked over between you—among the three of you?
- " Mrs. KENNEDY. Well, not exactly among the three of us, sir.
- " Mr. TAYLER. Tell us what took place.
- " Mrs. KENNEDY. It was between her and her husband, and I had a slight interview with his wife; not very lengthy.
- " Mr. TAYLER. Did she know you were to marry him?
- " Mrs. KENNEDY. Yes, sir; I think she did.
- " Mr. TAYLER. Did she give her consent to it?
- " Mrs. KENNEDY. I think she did.
- " Mr. TAYLER. Was an arrangement made for you to go to another place and be married?
- " Mrs. KENNEDY. Yes, sir.
- " Mr. TAYLER. Where were you to go to be married?
- " Mrs. KENNEDY. We were to go to Juarez, Mexico.
- " Mr. TAYLER. How far is that from Diaz?
- " Mrs. KENNEDY. About 75 miles.
- " Mr. TAYLER. How did you go?
- " Mrs. KENNEDY. By wagon.
- " Mr. TAYLER. And who were in the party?
- " Mrs. KENNEDY. There was Mr. Johnson, his wife, myself, and one baby in the wagon.
- " Mr. TAYLER. Whose baby?
- " Mrs. KENNEDY. His wife's baby—Mr. Johnson's baby.
- " Mr. TAYLER. You reached Jaurez in two or three days, or two days? How long did it take you?
- " Mrs. KENNEDY. Two days—two days and a half.
- " Mr. TAYLER. Where did you stop, all of you?
- " Mrs. KENNEDY. We stopped at his half-brother's, Benjamin Johnson, or Benjy, as he was called then.
- " Mr. TAYLER. And when were you married; how long after you got there?
- " Mrs. KENNEDY. About two weeks.
- " Mr. TAYLER. Where were you married?
- " Mrs. KENNEDY. At president—well, he is not exactly president; he is among one of the first presidents of the stake.
- " Mr. TAYLER. What day of the month and year was this?

- " Mrs. KENNEDY. It was on the 19th evening of May.
 " Mr. TAYLER. Of what year? What year was it you went there?
 " Mrs. KENNEDY. I can not just recall.
 " Mr. TAYLER. How old were you? That is the way to get at it.
 " Mrs. KENNEDY. I was 17 years old.
 " Mr. TAYLER. And you are now 26?
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. We can figure that out. 1896?
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. And who married you?
 " Mrs. KENNEDY. Brother Young married me.
 " Mr. TAYLER. Brother Brigham Young?
 " Mrs. KENNEDY. Brother Brigham Young.
 " Mr. TAYLER. That is, the Apostle Brigham Young?
 " Mrs. KENNEDY. I suppose so.
 " Mr. TAYLER. You have heard him so called?
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. How long did you live with Mr. Johnson?
 " Mrs. KENNEDY. About five years from the time that I was married to him until I came back home. Of course, that would be just about five years.
 " Mr. TAYLER. Did you have any children by him?
 " Mrs. KENNEDY. Two.
 " Mr. TAYLER. Are they living?
 " Mrs. KENNEDY. One is living.
 " Mr. TAYLER. How old is that child?
 " Mrs. KENNEDY. He will be 7 years old next September.
 " Mr. TAYLER. You finally separated, did you?
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. Did you tell me at whose house you were married?
 " Mrs. KENNEDY. A. F. McDonald.
 " Mr. TAYLER. And he, you say, was the president or councilor of the stake?
 " Mrs. KENNEDY. Yes, sir; at that time.
 " Mr. TAYLER. Was he present at the marriage?
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. Had you seen Apostle Brigham Young before this time?
 " Mrs. KENNEDY. Before I was married?
 " Mr. TAYLER. Yes.
 " Mrs. KENNEDY. Yes, sir.
 " Mr. TAYLER. Where?
 " Mrs. KENNEDY. At Diaz, Mexico."
- It has been shown that Abraham H. Cannon took a plural wife in June, 1896.

[Testimony of Mrs. Wilhelmina C. Ellis. (Vol. II, p. 141.)]

- " Mrs. WILHELMINA C. ELLIS, being duly sworn, was examined and testified as follows:
 " Mr. TAYLER. You live in Salt Lake City, Mrs. Ellis?
 " Mrs. ELLIS. Yes, sir.
 " Mr. TAYLER. Were you born there?
 " Mrs. ELLIS. Yes, sir.

- " Mr. TAYLER. Are you a daughter of Angus Cannon?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. Very early in your life you were married to your cousin, Abraham Cannon, were you not?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. And since his death you have married Mr. Ellis?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. And still live in Salt Lake City where you have always lived?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. How old were you when you married Abraham Cannon?
- " Mrs. ELLIS. Nineteen.
- " Mr. TAYLER. You were a plural wife?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. And, I believe, his first plural wife?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. He lived for twenty years or more after he married you. [A pause.] When were you married to him?
- " Mrs. ELLIS. October 15, 1879.
- " Mr. TAYLER. 1879?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. And he died in July, 1896?
- " Mrs. ELLIS. July 19, 1896.
- " Mr. TAYLER. When did he marry Lillian Hamlin?
- " Mrs. ELLIS. I do not know the date.
- " Mr. TAYLER. I do not care about the exact date.
- " Mrs. ELLIS. After June 12 and before July 2.
- " Mr. TAYLER. Of what year?
- " Mrs. ELLIS. 1896.
- " Mr. TAYLER. He was at that time an apostle?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. One of the twelve?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. About how long had he been an apostle?
- " Mrs. ELLIS. I do not know exactly; four or five years.
- " Mr. TAYLER. Did he, before he married Lillian Hamlin, talk to you about it?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. Did he tell you that he was going to marry her?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. How long before the 12th of June did he first talk with you about his marrying Lillian Hamlin?
- " Mrs. ELLIS. Oh, several weeks.
- " Mr. TAYLER. At that time he had how many wives?
- " Mrs. ELLIS. Three.
- " Mr. TAYLER. He married another after marrying you?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. Did he give any reason why he wished to marry her particularly? [A pause.] Did you understand that Lillian Hamlin had been engaged to be married to Abraham Cannon's brother?
- " Mrs. ELLIS. Yes, sir.
- " Mr. TAYLER. Who some time before that had died?
- " Mrs. ELLIS. Yes, sir.

" Mr. TAYLER. And was that a reason why she felt a desire to marry Abraham Cannon, and he was willing to marry her?

" Mrs. ELLIS. Yes, sir.

" Mr. TAYLER. You learned that from whom—from Mr. Cannon?

" Mrs. ELLIS. Yes, sir; from him.

" Mr. TAYLER. Now, when did you learn that Abraham Cannon had determined to marry Lillian Hamlin—when, with reference to the 12th day of June, 1896? Was it that day?

" Mrs. ELLIS. I do not remember. No; it was not that day. That was my daughter's birthday, and he was there, I remember that, on account of her birthday.

" Mr. TAYLER. Was it prior to that time?

" Mrs. ELLIS. Yes, sir.

" Mr. TAYLER. A short time only before that?

" Mrs. ELLIS. Only a few days.

" Mr. TAYLER. Only a few days before that?

" Mrs. ELLIS. Yes, sir.

" Mr. TAYLER. Did you say anything to him in reply to his statement that he was going to marry her?

" Mrs. ELLIS. Yes, sir; I told him I did not think he could marry her.

" Mr. TAYLER. What did he say to that?

" Mrs. ELLIS. He said he could marry her out of the State—out of the United States.

" Mr. TAYLER. Did he state with any more particularity where he could marry her, whether in Mexico or Canada or on the high seas?

" Mrs. ELLIS. I do not remember that he did. He said they were going—he was going to California on this trip.

" Mr. TAYLER. And that he was going to marry her while on that trip?

" Mrs. ELLIS. No; I do not think he said that then.

" Mr. TAYLER. Not then. Later? Did you see him before he went away?

" Mrs. ELLIS. Yes, sir; I saw him the evening he left.

" Mr. TAYLER. What conversation did you have with him then about his going away and about his getting married again? What did he say first about going?

" Mrs. ELLIS. He told me he was going to marry her for time, and that she would be David's wife for eternity.

" Mr. TAYLER. What did you say?

" Mrs. ELLIS. I told him if he married her, there being a law against marriages at that time, that I could not, my conscience would not allow me to, live with him when her marriage would not be acknowledged by the church or the land.

" Mr. TAYLER. What did he say to that?

" Mrs. ELLIS. I do not remember that he made any reply.

" Mr. TAYLER. Have you given us, as nearly as you can, the conversation that took place at that time?

" Mrs. ELLIS. Yes, sir.

" Mr. TAYLER. Did he say he was going away that day, or that evening, to California?

" Mrs. ELLIS. He told me to pack his grip or his satchel and told me he was going on this trip.

" Mr. TAYLER. What did he say about Miss Hamlin?

"Mrs. ELLIS. Of course I understood, in fact he said she was going with him and President Smith.

"Mr. TAYLER. And President Smith?

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. And that they were going to be married?

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. When did he come back?

"Mrs. ELLIS. As nearly as I can remember, on July 2.

"Mr. TAYLER. And when he returned he was very ill?

"Mrs. ELLIS. Yes, sir; very.

"Mr. TAYLER. And as a result of the illness, died within the next two or three weeks. Is that correct?

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. Was he brought to your house?

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. When did you first learn, Mrs. Ellis, that he had in fact married Miss Hamlin? Was it immediately after he got back?

"Mrs. ELLIS. I think within two weeks.

"Mr. TAYLER. Was Miss Hamlin there during his sickness?

"Mrs. ELLIS. The last few days. She did not stay—not in my home.

"Mr. TAYLER. Did she come with him to the house?

"Mrs. ELLIS. No, sir.

"Mr. TAYLER. He was brought to your house, and later she came and went, from time to time——

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. Until he died? What did Mr. Cannon say to you shortly before his death about his having married Miss Hamlin?

"Mrs. ELLIS. He told me he had married her and asked my forgiveness.

"Mr. TAYLER. What else did he say about it?

"Mrs. ELLIS. He said he had never had a well day since he had married her. I think it killed him.

"Mr. TAYLER. You have stated, have you not, Mrs. Ellis, to several of your relatives and acquaintances in Salt Lake that he also told you that Joseph F. Smith married him?

"Mrs. ELLIS. No, sir; I have never said that.

"Mr. TAYLER. You have never said that?

"Mrs. ELLIS. No, sir; not that he told me.

"Mr. TAYLER. You have stated frequently that Joseph F. Smith did marry them?

"Mrs. ELLIS. Yes, sir.

"Mr. TAYLER. But you have not stated that Mr. Cannon——

"Mrs. ELLIS. No, sir.

"Mr. TAYLER. Stated that he had married them?

"Mrs. ELLIS. No, sir.

"Mr. TAYLER. Have you any knowledge of the fact that Joseph F. Smith had married them?

"Mrs. ELLIS. No, sir.

"Mr. TAYLER. That was based solely upon the fact that your husband was an apostle; that he had gone to California for the purpose, among other things, perhaps, of marrying Miss Hamlin; that he was going to marry her on the high seas——

"MR. WORTHINGTON. The witness has not said that Abraham Cannon was going to marry her on the high seas.

"MR. TAYLER. And that Mr. Joseph F. Smith was with them. Is that the only basis of your conclusion?

"MR. WORTHINGTON. I object to that question, because the witness has not said that her husband told her he was going to marry Miss Hamlin on the high seas. The question assumes that he told her so.

"The CHAIRMAN. I do not think the witness said that.

"MR. WORTHINGTON. She has not stated that her husband told her that he was going to marry Miss Hamlin on the high seas.

"MR. TAYLER (to the witness). Did your husband tell you where he was married?

"MRS. ELLIS. No, sir.

"MR. TAYLER. Did you not know they were married on the high seas?

"MRS. ELLIS. Only from reports.

"MR. TAYLER. That is not an essential part of the inquiry. [To the witness.] It was an inference from the fact that your husband said he was going to marry her, and went away to California for that purpose, and that Joseph F. Smith went along with them. From that you inferred that Joseph F. Smith had married them?

"MRS. ELLIS. Yes, sir.

"MR. TAYLER. I was not seeking to put any unfair question.

"The CHAIRMAN. Did your husband tell you who did perform the ceremony?

"MRS. ELLIS. No, sir.

"Senator DUBOIS. Have you ever heard it rumored that anybody else than Joseph F. Smith married them?

"MRS. ELLIS. I thought he had married them until he was here last year, or at the last term of Congress.

"MR. TAYLER. Until he testified here in this committee?

"MRS. ELLIS. Yes, sir."

It has been shown that the president of the church knew of it at the time—that is, the man who is now president.

[Testimony of Joseph F. Smith. (Vol. I, p. 126.)]

"JOSEPH F. SMITH, having previously affirmed, was examined, and testified as follows:

"MR. TAYLER. Before proceeding with the line of questioning respecting Apostle George Teasdale, Mr. Smith, I desire to recur for a moment to the subject of Abraham H. Cannon. At the time of his death he was an apostle?

"MR. SMITH. Yes, sir.

"MR. TAYLER. How long had he been an apostle, or about how long?

"MR. SMITH. I do not know.

"MR. TAYLER. Had he been for some time; some years?

"MR. SMITH. Yes; some years.

"MR. TAYLER. At the time of his death he was a polygamist, you stated, I believe?

"MR. SMITH. That is my understanding, sir.

"MR. TAYLER. You knew several of his wives?

"MR. SMITH. Well, I can not say I knew them, except that I have seen them.

- "Mr. TAYLER. You have seen them?
- "Mr. SMITH. Yes, sir; and they were reputed to be his wives.
- "Mr. TAYLER. And they were reputed to be his wives?
- "Mr. SMITH. I do not know anything about it.
- "Mr. TAYLER. Prior to June, 1896, you had never heard of Lillian Hamlin being his wife?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. Nor had you known her prior to that time?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. Did you see them at Los Angeles?
- "Mr. SMITH. Yes, sir.
- "Mr. TAYLER. Were you out in a boat from there?
- "Mr. SMITH. Yes, sir.
- "The CHAIRMAN. I did not understand the date.
- "Mr. TAYLER. June, 1896.
- "The CHAIRMAN. 1896?
- "Mr. TAYLER. Yes.
- "The CHAIRMAN. Proceed.
- "Mr. TAYLER. Where did you go with them in a boat?
- "Mr. SMITH. We went to Catalina Island.
- "Mr. TAYLER. Did you go from there anywhere out in the water?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. Your journey through the water was merely from the mainland to Catalina Island?
- "Mr. SMITH. That is correct.
- "Mr. TAYLER. Was there any talk, or did anything occur while you were aboard that boat, respecting the marriage relations of Abraham H. Cannon—
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. And his wife?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. No reference was made to the subject at all?
- "Mr. SMITH. Not to me.
- "Mr. TAYLER. Not to you?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. To whom was any reference made?
- "Mr. SMITH. I do not know.
- "Mr. TAYLER. Nothing was said in your presence or to your knowledge about that subject?
- "Mr. SMITH. No, sir. The first I heard of it was years afterwards through the public prints.
- "Mr. TAYLER. Through the public prints?
- "Mr. SMITH. Yes, sir.
- "Mr. TAYLER. That is, that you had married them aboard that vessel?
- "Mr. SMITH. That is what I heard in the public prints.
- "Mr. TAYLER. That is what you heard?
- "Mr. SMITH. Yes, sir.
- "Mr. TAYLER. Did you have any talk on that journey or after you left Salt Lake—after you first heard or learned that Lillian Hamlin was the wife of Abraham Cannon—as to when they were married?
- "Mr. SMITH. No, sir.
- "Mr. TAYLER. Did you have any talk with either of them?
- "Mr. SMITH. Not in the least.

"Mr. TAYLER. Not in the least?"

"Mr. SMITH. Not in the least, sir; and no one ever mentioned to me that they were or were not married. I simply judged they were married because they were living together as husband and wife."

It has been shown that Apostle George Teasdale took a plural wife six years after the manifesto, and he is justified by the president of the church, by his associates, and by Senator Smoot's counsel here upon the theory that because of some physical disability inhering in his legal wife when they were married he had a right to enter into a new marriage relation while the law had yet remained silent on the subject of the validity and efficacy of his first marriage. A divorce was obtained by Apostle George Teasdale four or five years after he had married this plural wife. It has been shown that Benjamin Cluff, the president of Brigham Young University (of which Senator Smoot is and was a trustee), took a plural wife, the daughter of a high church official, about 1899; that he was permitted to remain at the head of the institution until December, 1903, when, with Mr. Smoot's consent and approval, he was succeeded in his office by another polygamist, by a polygamist of whom Senator Smoot says that his violation was perhaps only technical.

It has been shown by the strongest and most convincing kind of repute in the community in which he lives, and is not contradicted, that apostle John W. Taylor has taken two plural wives within the last three or four years, and that this apostle refuses to appear and testify, and absents himself from the country.

Now, a word or two about that ought to be said. The community in which he took these two plural wives, or in which he lived when he took them, is a small community. The testimony of the repute was by a man who had lived there for many years.

[Testimony of L. E. Abbott. (Vol. I, p. 1051.)]

"L. E. ABBOTT, having been first duly sworn, was examined and testified as follows:

"Mr. TAYLER. Where is your home, Mr. Abbott?"

"Mr. ABBOTT. Farmington, Davis County, Utah.

"Mr. TAYLER. How long have you lived there?"

"Mr. ABBOTT. Thirty-six years. I was born and raised there.

"Mr. TAYLER. Are you a Mormon?"

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. You were born in the church, were you?"

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. Your parents were Mormon?"

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. Do you know Apostle John W. Taylor?"

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. How long have you known him?"

"Mr. ABBOTT. Probably twelve years.

"Mr. TAYLER. Where is his home?"

"Mr. ABBOTT. In Farmington.

"Mr. TAYLER. Has he any other home than the Farmington home?"

"Mr. ABBOTT. By repute, I suppose he has.

"Mr. TAYLER. How many wives is he reputed to have?"

- "Mr. ABBOTT. He is reputed to have five wives.
- "Mr. TAYLER. How many has he living in Farmington?
- "Mr. ABBOTT. Two.
- "Mr. TAYLER. Do you understand that the two wives who live at Farmington are plural wives?
- "Mr. ABBOTT. Yes, sir.
- "Mr. TAYLER. Do you know the name of his first or lawful wife?
- "Mr. ABBOTT. Yes, sir.
- "Mr. TAYLER. What is her name, or what was her name?
- "Mr. ABBOTT. Her name was Rich. I do not know her first name.
- "Mr. TAYLER. What are the names of the two plural wives who live in Farmington?
- "Mr. ABBOTT. Nellie Todd and Nettie Woolley.
- "Mr. TAYLER. Have you known them always?
- "Mr. ABBOTT. No, sir.
- "Mr. TAYLER. How long have you known them?
- "Mr. ABBOTT. Probably six years.
- "Mr. TAYLER. Then, until six years ago they did not live at Farmington?
- "Mr. ABBOTT. No, sir.
- "Mr. TAYLER. Had Apostle Taylor been living in Farmington prior to that time?
- "Mr. ABBOTT. No, sir.
- "Mr. TAYLER. Are they neighbors of yours?
- "Mr. ABBOTT. Yes, sir; my closest neighbors.
- "Mr. TAYLER. Do they both live in one house?
- "Mr. ABBOTT. No, sir.
- "Mr. TAYLER. Where are the two houses with reference to yours?
- "Mr. ABBOTT. I live on the corner, and the closest house to me on the left is Nettie Woolley's, and catercornered across the street, one block away, is Nellie Todd's.
- "Mr. TAYLER. Are they known as Apostle Taylor's wives?
- "Mr. ABBOTT. Yes, sir.
- "Mr. TAYLER. And are the children known as his children?
- "Mr. ABBOTT. Yes, sir.
- "Mr. TAYLER. How many children, if you know, has Nellie Todd?
- "Mr. ABBOTT. Well, I should say about six.
- "Mr. TAYLER. How old is the oldest of them?
- "Mr. ABBOTT. I should judge 16.
- "Mr. TAYLER. And the youngest?
- "Mr. ABBOTT. Probably 2 years old.
- "Mr. TAYLER. How many children are there in Nettie Woolley's family?
- "Mr. ABBOTT. I think five.
- "Mr. TAYLER. How old is the oldest?
- "Mr. ABBOTT. I should judge 11 or 12.
- "Mr. TAYLER. How old a man is Apostle Taylor, would you judge?
- "Mr. ABBOTT. I should judge him to be 45 or 46 years of age.
- "Mr. TAYLER. Who are the other reputed plural wives of Apostle Taylor? I mean, what are their names?
- "Mr. ABBOTT. Rhoda and Roxie Welling.
- "Senator OVERMAN. Are they sisters?
- "Mr. ABBOTT. Yes, sir; half-sisters.
- "Mr. TAYLER. Where are they now?

"Mr. ABBOTT. I do not know.

"Mr. TAYLER. Were they born and reared at Farmington?

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. So that you have known them all their lives, have you?

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. Did they live near you?

"Mr. ABBOTT. Within about a mile of me.

"Mr. TAYLER. How old are they now?

"Mr. ABBOTT. I would judge them to be from 22 to 24 years of age, although I am not absolutely sure, Mr. Tayler.

"Mr. TAYLER. When did it become public talk that they were the wives of Apostle Taylor?

"Mr. ABBOTT. About two years ago.

"Mr. TAYLER. Were they at that time living in Farmington?

"Mr. ABBOTT. Yes, sir.

"Mr. TAYLER. And where were they living—I mean where in Farmington?

"Mr. ABBOTT. They were living one of them with each of his wives as hired girls."

It remains uncontradicted down to this hour that this apostle Taylor had taken two plural wives, whose names are given, who are living people, who have parents and relatives to deny the foul aspersion upon them, if it be one, but not a syllable have we heard of John W. Taylor since that damning testimony came in save that he will not come here and testify, and is now in Canada or Mexico or in some remote place, about which even his fellow-apostle, Senator Smoot, can not give any definite information. Apostle Merrill, who, by a very different kind of repute, because the testimony is not given by one who lived in his own community and knew everybody there and what everybody talked about, finds it important to send here his affidavit, to which I did not object and permitted it to go into this record, saying that he has not taken a plural wife, but we are denied even the small satisfaction of an easy affidavit from Apostle Taylor that he has not taken two young women within recent years.

Now, polygamy is not dying very fast when an apostle of the Mormon Church aged 46 has within two or three years taken two plural wives aged about 21. It is not only a burning question, but is likely to be permanent so long as those of us interested in this inquiry are here on earth to discuss it.

It is also proved by repute, and uncontradicted by those who could contradict it, that Apostle Cowley has taken a plural wife within the last few years, nor has he taken advantage of the easy opportunity offered by the methods in this case to file his affidavit denying it.

[Testimony of C. M. Owen (Vol. II, p. 427).]

"Mr. WORTHINGTON. As to Apostle Cowley; you have said that the atmosphere is that he married somebody since the manifesto?

"Mr. OWEN. That is the repute; yes.

"Mr. WORTHINGTON. What does the atmosphere say on that subject?

"Mr. OWEN. The repute of Cowley is that he married Hattie Harker.

"MR. WORTHINGTON. Identify her. Where did she live?

"MR. OWEN. In Salt Lake City.

"MR. WORTHINGTON. And when did this reputed marriage reputedly occur?

"MR. OWEN. About three or four years ago."

It has been shown that other officials of the church have taken plural wives since 1890, and that no effort has been made by the church to discipline or to punish them.

[Testimony of John Henry Smith (Vol. II, p. 287).]

"MR. TAYLER. Of course you knew Apostle Abram H. Cannon?

"MR. SMITH. Yes, sir; I knew Apostle Abram H. Cannon.

"MR. TAYLER. You heard the story of his marriage in 1896 to Lillian Hamlin, did you not?

"MR. SMITH. No; I did not hear the statement of his marriage.

"MR. TAYLER. You did not hear anything about it?

"MR. SMITH. I know nothing about Abram H. Cannon's family matters to any degree. The lady that was here, I knew her from a child, but his other wives I have not been intimate with. I wouldn't know one of them if I saw them.

"MR. TAYLER. You still do not answer my question. Did you ever hear of his having married Lillian Hamlin?

"MR. SMITH. I have heard intimations of that character; yes, sir.

"MR. TAYLER. You heard them about the time of his death, did you not?

"MR. SMITH. I think Mr. Lannon, of the Salt Lake Tribune, told me that Mr. Cannon had married Lillian Hamlin; but I have never met the lady and didn't know her. He was the first person that ever told me about it.

"MR. TAYLER. Were you in Salt Lake City at his funeral?

"MR. SMITH. I was; yes, sir—that is, I think during his sickness I was at his home once.

"MR. TAYLER. And was the only person who mentioned to you the fact, or the story, whether it was a fact or not, of his marriage to Lillian Hamlin Mr. Lannon?

"MR. SMITH. Yes; I don't remember of anybody else.

"MR. TAYLER. You heard nothing of it among the brethren or the apostles?

"MR. SMITH. I heard nothing of Mr. Cannon's marriage among my brethren, as far as that is concerned. I did once, in the midst of excitement, ask Joseph F. Smith if he married Lillian Hamlin to Abram H. Cannon. He said, 'No, sir.'

"MR. TAYLER. When was that?

"MR. SMITH. That would be probably five years ago, possibly.

"MR. TAYLER. Some time after the marriage is said to have occurred?

"MR. SMITH. Yes, sir.

"MR. TAYLER. Did you or any of your associates ever take any steps to find out whether it was true that Abram Cannon had taken a plural wife in 1896?

"MR. SMITH. No, sir.

"MR. TAYLER. Did you not think it touched very nearly the question of the honesty and sincerity of your church, Mr. Smith?

"Mr. SMITH. No, sir.

"Mr. TAYLER. To answer that question?

"Mr. SMITH. No, sir; because the duties of men looking after people for violations of law is with the bishops of our church.

"Mr. TAYLER. Exactly; but I am not talking about looking after some person for a violation of the law. This man was dead. I am thinking whether you had any interest in the church and in the conception that the rest of the country would have of its fidelity to its promise. Did that not lead you to make any inquiry, even personal inquiry, on that subject?

"Mr. SMITH. I have never made any personal inquiry into Mr. Cannon's family conditions at all.

"Mr. TAYLER. So that so far as any activity or expressed or exhibited interest of yours was concerned it was a matter in respect to which you were wholly unconcerned?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. Whether an apostle of your church had taken a fourth wife six years after the manifesto. Now, do I correctly describe your state of mind?

"Mr. SMITH. I take it for granted that every man of my faith is amenable to the law of the land and that the courts were in full operation in Utah; and if Abram Cannon or any other man had understandingly taken a wife that the courts were there and the officers thoroughly and fully competent to discharge their obligation and that I was not responsible in that matter. I never have held myself responsible for the deeds and acts of my associates, either morally or immorally, or otherwise, so far as that is concerned.

"Mr. TAYLER. Mr. Smith, I do not want to intimate that your answer is not candid, but I have an appreciation of your intelligence that makes me hesitate to believe that your answer is quite fair. The stenographer will read the question again, so that you may answer it as asked. I am not asking you about what you would do in respect to any particular member of your church who might in that respect violate the law. I can appreciate the situation in which you would find yourself in such a matter, but Abram Cannon came home sick and died before anyone would think of arresting him if there had been any movement in that direction. The stenographer will please read the question that I asked you.

"The stenographer read as follows:

"Mr. TAYLER. So that so far as any activity or expressed or exhibited interest of yours was concerned, it was a matter in respect to which you were wholly unconcerned?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. Whether an apostle of your church had taken a fourth wife six years after the manifesto. Now do I correctly describe your state of mind?"

"Mr. SMITH. The answer I could make to that is, had I been a grand jury man and a case of that kind had been brought before me, and the evidence sufficient, I would have indicted him for a violation of the law. That is all I can say on that matter.

"Mr. TAYLER. I see now, Mr. Smith, that you misunderstand my question. Did it not appeal to you that the rest of the country—Congress, for instance, public men who had been interested in the

legislation in Utah—might think that Utah or the Mormon Church had been unfaithful and untrue if an apostle of the church had taken a fourth wife?

“Mr. SMITH. I don't know that it ever struck me that way, because I thought the country recognized the fact that the courts were in motion in our State, and that cases of that kind would receive the consideration of the public officers, when the most of those officers were non-Mormons.

“Mr. TAYLER. Would you not, Mr. Smith, realize to-day, for instance, that if the president of the church, Joseph F. Smith, should take a plural wife, the significance of that fact would be not arising at all out of what might occur to him if somebody prosecuted him, but as to its effect upon the church and its great concerns and the relation that it sustains to the rest of the country? Would you not appreciate that that was true?

“Mr. SMITH. I would to this extent, that I believe he should be prosecuted if he did that sort of thing.

“Mr. TAYLER. And that is all?

“Mr. SMITH. Yes.

“Mr. TAYLER. And do you think that that is the only respect in which the general public would be interested as to what would happen to Joseph F. Smith in respect to a prosecution for that offense?

“Mr. SMITH. I think so.

“Mr. TAYLER. Do you not think the most serious effect of such an act by Joseph F. Smith would be upon the people in the Mormon Church?

“Mr. SMITH. There is no doubt about it.

“Mr. TAYLER. It would be a very unfortunate thing, would it not, for the people in the Mormon Church?

“Mr. SMITH. There is no doubt about that, Mr. Tayler.

“Mr. TAYLER. Did you ever hear the charge made that Apostle Taylor had taken two additional wives?

“Mr. SMITH. Not until I read it in the testimony taken before this committee.

“Mr. TAYLER. Have you taken any steps to find out if there is any truth in that?

“Mr. SMITH. No, sir; I have not.

“Mr. TAYLER. Have you made any suggestions that it would be a good thing for Apostle Taylor to come before the committee and testify to the truth?

“Mr. SMITH. I have not seen Apostle Taylor for years myself.

“Mr. TAYLER. Where is he?

“Mr. SMITH. I presume he is in Canada. I don't know. Mr. Tayler will remember that I was subpoenaed before this body of men some months ago. I was then confined to my room. A second subpoena was sent and I was there still. I am still laboring under the effects of that sickness and wholly unfitted, really, for hard work. For seven months I was unable to dress myself. I just make that explanation. I haven't looked after anybody or paid any attention to anybody's interests except my own.

“Mr. TAYLER. So that so far as you are concerned, you have not been so situated, even if you had the disposition, as to take up any of these inquiries?”

I ought, in justice to Senator Smoot, to say that he testifies that last fall he had some discussion with his associates in the apostleship respecting Taylor and Cowley, and that an inquiry was set on foot. I say that in justice to him, but I add this comment: That if an inquiry of that sort was set on foot as long ago as last fall by people such as are at the head of the Mormon Church, with their ramifying influences and means of obtaining information, they must have found out something by this time if it was carried on in good faith.

Notwithstanding the rule of the church, the law of the land, and the solemn promise of the hierarchy to abstain from polygamous cohabitation, a majority of the first presidency and twelve apostles have persistently, notoriously, and confessedly continued to live with plural wives, and in almost every instance to bring new children into the world by them.

[Testimony of Joseph F. Smith. (Vol. I. p. 330, p. 1.)]

"MR. WORTHINGTON. I observe that Senator Bailey is here, and I will put a question which I deferred until he came in. That is whether the manifesto is taken to be a revelation. You spoke yesterday, I think, of a sermon that had been delivered by President Woodruff after the manifesto. Is that the manifesto which is published in connection with the proceedings before the Committee on Territories of the House of Representatives when Utah was knocking at the door for admission as a State?

"MR. SMITH. President Woodruff himself declares——

"MR. WORTHINGTON. No; I asked you——

"MR. SMITH. I beg pardon.

"MR. WORTHINGTON. I asked whether the sermon is the one printed in connection with the proceedings? Look at it. It is on page 85. It will speak for itself. I want first to identify it. [Handing witness pamphlet.] You need not read it clear through.

"MR. SMITH (after examining pamphlet). I have not any doubt but that it is correctly stated, just as he stated it.

"MR. WORTHINGTON. That is a sermon which was delivered by President Woodruff on November 1, 1891, a little over a year after the manifesto. He refers to the manifesto. I will not read it all, but I will ask the stenographer——

"MR. VAN COTT. Read it all.

"THE CHAIRMAN. It can be inserted in the record.

"MR. WORTHINGTON. Yes; I will read only the concluding portion of it. It is quite long.

"I should have let all the temples go out of our hands; I should have gone to prison myself and let every other man go there had not the God of heaven commanded me to do what I did do; and when the hour came that I was commanded to do that, it was all clear to me. I laid it before my brethren, such strong men as Brother George Q. Cannon, Brother Joseph F. Smith, and the twelve apostles. I might as well undertake to turn an army with banners out of its course as to turn them out of a course that they considered to be right. These men agreed with me, and 10,000 Latter-Day Saints also agreed with me. Why? Because they were moved upon by the spirit of God and by the revelations of Jesus Christ to do it."

"The preceding portion shows it is the manifesto referred to. Now, I was about to ask you——

" The CHAIRMAN. What year was that?

" Mr. WORTHINGTON. November 1, 1891; a little over a year after the manifesto was issued.

" The matter referred to is as follows:

" The following extract from a sermon delivered by President Woodruff at Logan, November 1, 1891, will further explain the position of the church on this subject.

" President Woodruff said:

" I have had some revelations of late, and very important ones to me, and I will tell you what the Lord has said to me. Let me bring your minds to what is termed the manifesto. The Lord has told me by revelation that there are many members of the church throughout Zion who are sorely tried in their hearts because of that manifesto, and also because of the testimony of the presidency of this church and the apostles before the master in chancery. Since I received that revelation I have heard of many who are tried in these things, though I had not heard of any before that particularly. Now, the Lord has commanded me to do one thing, and I fulfilled that commandment at the conference at Brigham City last Sunday, and I will do the same here to-day.

" The Lord has told me to ask the Latter-Day Saints a question, and He also told me that if they would listen to what I said to them and answer the question put to them by the spirit and power of God, they would all answer alike, and they would all believe alike with regard to this matter. The question is this: Which is the wisest course for the Latter-Day Saints to pursue; to continue to attempt to practice plural marriage, with the laws of the nation against it and the opposition of sixty millions of people, and at the cost of the confiscation and loss of all the temples, and the stopping of all the ordinances therein, both for the living and the dead, and the imprisonment of the first presidency and twelve and the heads of families in the church, and the confiscation of personal property of the people (all of which of themselves would stop the practice), or after doing and suffering what we have through our adherence to this principle to cease the practice and submit to the law, and through doing so leave the prophets, apostles, and fathers at home, so that they can instruct the people and attend to the duties of the church, and also leave the temples in the hands of the saints, so that they can attend to the ordinances of the gospel, both for the living and the dead?

" The Lord showed me by vision and revelation exactly what would take place if we did not stop this practice. If we had not stopped it you would have had no use for Brother Merrill, for Brother Edlefsen, for Brother Roskelley, for Brother Leishman, or for any of the men in this temple at Logan; for all ordinances would be stopped throughout the land of Zion. Confusion would reign throughout Israel, and many men would be made prisoners. This trouble would have come upon the whole church, and we should have been compelled to stop the practice. Now, the question is whether it should be stopped in this manner or in the way the Lord has manifested to us and leave our prophets and apostles and fathers free men and the temples in the hands of the people, so that the dead may be redeemed. A large number has already been delivered from the prison house in the spirit world by this people, and shall the work go on or stop? This is the question I lay before the Latter-Day Saints. You have to

judge for yourselves. I want you to answer it for yourselves. I shall not answer it; but I say to you that that is exactly the condition we, as the people, would have been in had we not taken the course we have.

“I know there are a good many men, and probably some leading men, in this church who have been tried and felt as though President Woodruff had lost the spirit of God and was about to apostatize. Now, I want you to understand that he has not lost the spirit, nor is he about to apostatize. The Lord is with him and with his people. He has told me exactly what to do and what the result would be if we did not do it. I have been called upon by friends outside the church and urged to take some steps with regard to this matter. They knew the course which the Government were determined to take. This feeling has also been manifested more or less by members of the church. I saw exactly what would come to pass if there was not something done. I have had the spirit upon me for a long time.

“But I want to say this: I should have let all the temples go out of our hands, I should have gone to prison myself and let every other man go there, had not the God of Heaven commanded me to do what I did do; and when the hour came that I was commanded to do that, it was all clear to me. I went before the Lord, and I wrote what the Lord told me to write. I laid it before my brethren, such strong men as Brother George Q. Cannon, Brother Joseph F. Smith, and the twelve apostles. I might as well undertake to turn an army with banners out of its course as to turn them out of a course that they considered to be right. These men agreed with me, and 10,000 Latter-Day Saints also agreed with me. Why? Because they were moved upon by the spirit of God and by the revelations of Jesus Christ to do it.”

“Mr. WORTHINGTON. Also in the petition submitted to the President asking for amnesty, the same thing was averred and signed by President Woodruff and all the other apostles. I understand that the first presidency is composed of the president and his two councilors.

“Senator BAILEY. Before you leave that, if you do not intend yourself to ask any further questions about it, I would like to ask a question. The sermon says these 10,000 members of the church were moved upon by a revelation. I do not still see that the head of the church declares that he received a revelation. He does say that he went to God in anguish and prayer, just as Christians of various denominations do when their duty is not plain, and they rise from it more or less instructed. But that was an instruction to obey the law. I, myself, think a Christian would go to the stake before he would abandon his creed; and if that is a revelation, contradicting a former revelation—

“Mr. SMITH. It is not contradicting it.

“Senator BAILEY. I think it is. The former revelation undoubtedly permitted plural marriages, if it did not command them, and this revelation forbids them.

“Mr. SMITH. It simply forbids the practice.

“Senator BAILEY. That is a distinction without a difference—

“Mr. SMITH. Oh, no.

“Senator BAILEY. Because the other undoubtedly permitted its practice. This forbids the practice. Now, if there is not a conflict between these two I am unable to comprehend what a conflict is. Under one state of the case they were permitted to enter into plural

marriage and in another state of the case they were forbidden to do it. Now, from what I can understand—

"Mr. SMITH. Will the Senator please allow me to say a word just there?

"The CHAIRMAN. Let the Senator complete his statement.

"Mr. SMITH. I beg your pardon.

"Senator BAILEY. I will pause to hear the witness.

"The CHAIRMAN. Very well.

"Mr. SMITH. The one is no more emphatic than the other. President Woodruff declares that he himself will stop and that he will use all his influence to have all the people stop the continuance of plural marriages, and all the people assembled in conference agreed with him that they would stop the practice of plural marriage.

"Senator BAILEY. That does not touch the question which I have in mind.

"Mr. SMITH. All right.

"Senator BAILEY. I will say to you very frankly that I do not have much patience with a doctrine which does not receive a revelation until there is a statute and where the revelation happens to conform to the statute. What I have been trying to fix in my mind is whether you taught that this was a revelation or merely a submission to the law. If it were a submission to the law, then it would be a question whether the Christian would submit to the laws of the land or to the laws of God. I do not pretend to judge about that, but when a sect teaches that an inspiration comes just after a statute has been passed and a report made to Congress I do not quite understand that anybody is required to accept it as a revelation.

"Senator FORAKER. All of that is a matter of opinion.

"Senator BAILEY. Hardly, if the Senator please.

"Senator FORAKER. I mean so far as the sense of duty is concerned.

"Senator BAILEY. Not precisely that. I have been compelled to submit to many a law that I thought a vicious one, and which I would have voted to repeal, but as a good citizen I submitted to it. But just how far I would have submitted if I had been otherwise commanded by a revelation from God is a question that I am not now deciding.

"Mr. SMITH. May I please try to explain this matter a little to the Senator? I will try to be brief.

"Senator BAILEY. Very well.

"Mr. SMITH. Mr. Senator, the facts are these: When the laws against plural marriage were passed by the Congress of the United States we held to the idea that they were unconstitutional laws. We are compelled by our doctrines—the doctrines of our church—to obey and observe the constitutional laws of our land.

"Senator BAILEY. I have heard such a statement read here.

"Mr. SMITH. We fought the validity of those laws in court all the way from the first and lower court to the highest court of our land, and when the subject finally came before the Supreme Court of the United States and was settled and the law was sustained as a constitutional law, then we, to be obedient to our own doctrines and faith, were naturally inclined to obey the law.

"But we had a revelation on our statute books, commanding us, or at least not commanding us—yes, commanding us to enter into a certain covenant for eternity as well as for time, which is mandatory, with reference to the blessings that are promised in the law; they can

not be received without it; and, with reference to the plural part of it, permissive, and we had the alternative before us as to whether we should observe even the constitutional law of the land that was so pronounced by the Supreme Court of the United States or to continue to practice the law of the church.

"President Woodruff, as president of the church, entitled, as we hold, as you may not hold, and as everybody is free to have his own opinion about it, to receive revelations and inspiration from Almighty God for the guidance of the church and that he is the final arbitrator for the church on matters of doctrine, sought to the Lord, and, as he says himself in the language which has been read here, the Lord made manifest to him clearly that it was his duty to stop plural marriages, and he received that revelation and that commandment from the Lord to stop it. He published it: announced it. It was submitted first to the officials of the church and accepted by them and then it was submitted to the entire church in conference assembled and it was accepted by them, and thus it became binding upon the church: and the church has from that day to this kept the law so far as plural marriages are concerned.

"I should like to draw a distinction in the Senator's mind that there is a great difference in our judgment, in our feelings, between the law prohibiting plural marriages and the law prohibiting what is termed in the law unlawful cohabitation—a very great difference. Plural marriage has stopped: but I choose, rather than to abandon my children and their mothers, to run my risks before the law. I want to say, too, that it is the law of my State—it is not the law of Congress—under which I am living and by which I am punishable. It is the law of my State, and the courts of my State have competent jurisdiction to deal with me in my offenses against the law, and the Congress of the United States has no business with my private conduct any more than it has with the private conduct of any citizen of Utah or any other State. It is the law of my State to which I am amenable, and if the officers of the law have not done their duty toward me I can not blame them. I think they have some respect for me.

"The CHAIRMAN. I wish to ask you a question right here. You speak of your unwillingness to abandon your children.

"Mr. SMITH. Yes, sir.

"The CHAIRMAN. Why is it necessary, in order to support your children, educate, and clothe them, that you should continue to have children by a multiplicity of wives?

"Mr. SMITH. Because my wives are like everybody else's wife.

"The CHAIRMAN. I am not speaking of them.

"Mr. SMITH. I understand.

"The CHAIRMAN. I am speaking of the children now in existence born to you.

"Mr. SMITH. Yes.

"The CHAIRMAN. Why is it necessary to continue to have issue by five wives in order to support and educate the children already in existence? Why is it necessary?

"Mr. SMITH. It is only to the peace and harmony and good will of myself and my wives; that is all.

"The CHAIRMAN. Then you could educate your children and clothe them and feed them without having new issue?

"Mr. SMITH. Well, yes: I possibly could, but that is just exactly the kernel in the nut.

"The CHAIRMAN. Yes.

"Mr. SMITH. I have chosen not to do that, Mr. Chairman.

"The CHAIRMAN. You have chosen not to do it?

"Mr. SMITH. That is it. I am responsible before the law for my action.

"The CHAIRMAN. And in not doing it, you are violating the law?

"Mr. SMITH. The law of my State?

"The CHAIRMAN. Yes.

"Mr. SMITH. Yes, sir.

"Senator OVERMAN. Is there not a revelation published in the Book of Covenants here that you shall abide by the law of the State?

"Mr. SMITH. It includes both unlawful cohabitation and polygamy.

"Senator OVERMAN. Is there not a revelation that you shall abide by the laws of the State and of the land?

"Mr. SMITH. Yes, sir.

"Senator OVERMAN. If that is a revelation, are you not violating the laws of God?

"Mr. SMITH. I have admitted that, Mr. Senator, a great many times here.

"Senator OVERMAN. I did not know that you had.

"Mr. SMITH. And I am amenable to the law for it. But I see the point of the Senator's question. Gentlemen, you have shown a great deal of leniency in permitting me to express my views here, and I do not wish to be offensive and I do not wish to take more time than I need to. But the church itself—I understand your point, that the church forbids me to violate the law, certainly it does—but the church gave me those wives, and the church can not be consistent with itself and compel me to forsake them and surrender them.

"Senator BAILEY. 'The Lord giveth and the Lord taketh away,' and when the Lord gave this second revelation forbidding it—

"Mr. SMITH. He did not forbid it.

"Senator BAILEY. Well, he did, if the manifesto is based upon a revelation, because the manifesto declares against it.

"Mr. SMITH. The manifesto declares positively the prohibition of plural marriages, and in the examination before the master in chancery the president of the church and other leading members of the church agreed before the master in chancery that the spirit and meaning of that revelation applied to unlawful cohabitation as well as to plural marriages.

"Senator BAILEY. That is what I was coming to now, Mr. Smith. Then, as I understand you, both plural marriage and unlawful cohabitation are forbidden by the statutes of Utah and by the revelations of God. Is that true?

"Mr. SMITH. That is the spirit of it, sir.

"Senator BAILEY. And yet you, as the head of the church, are defying both—

"Mr. SMITH. Oh, no.

"Senator BAILEY. The statutes of Utah and the ordinance of the church—

"Mr. SMITH. Not the ordinance at all.

"Senator BAILEY. Perhaps you have another and better expression to describe them?

"Mr. SMITH. If you say the manifesto——

"Senator BAILEY. I should say that a revelation once communicated to the church and sustained by the church would become an ordinance of the church.

"Mr. SMITH. If the Senator please——

"Senator BAILEY. If you will provide me with a better expression than that I shall be glad to adopt it. We will call it the law of the church.

"Mr. SMITH. No, sir; call it the rule.

"Senator BAILEY. Does not a revelation become the law of the church?

"Mr. SMITH. Call it the rule of the church, and I will understand.

"Senator BAILEY. Law, after all, is but a rule of conduct prescribed by the supreme power. What I am trying now to emphasize is that the manifesto is a revelation, or that it is based upon a revelation; that the revelation——

"Mr. SMITH. If the Senator will permit me, it is inspired. It is the same thing. I admit what you say.

"Senator BAILEY. I do not know quite so much about these nice distinctions in the gospel as I hope I do in the law. I am amenable to correction on those. But at any rate, it is a revelation forbidding alike plural marriage and unlawful cohabitation; and that revelation from the Lord is supplemented and reinforced by the statutes of the State of Utah.

"Mr. SMITH. Yes.

"Senator BAILEY. I agree with you entirely, that for your individual conduct you are amenable to the State of Utah and not to the Federal Government. I concur in that statement; but is it true that the head of the church in Utah is living in open and proclaimed defiance of the statutes of that State, and also in defiance of a revelation received by your predecessor—not your immediate predecessor, I believe, but a predecessor—and communicated to the church and sustained by it? Am I correct in that?

"Mr. SMITH. You are correct so far—that I have confessed here openly, and it has gone to the world—that I have not observed the law against cohabitation with my wives. That is all there is to it.

"Senator BAILEY. What I am trying to make clear is that it is a law not only of the State of Utah but also a law of the church.

"Mr. SMITH. It is a rule of the church.

"Senator BAILEY. This is what I want to make clear.

"Mr. SMITH. Yes.

"Senator OVERMAN. There is one question I wish to ask. You may have stated it before. This manifesto, which was published, I understand you to say is sent broadcast?

"Mr. SMITH. Yes.

"Senator OVERMAN. What I want to know is this: This manifesto does not tell about how the revelation came or that it is a revelation. Is this revelation published in any of your standard works?

"Mr. SMITH. I informed the committee yesterday that it has been an oversight, that it had not been published in the latest edition of the Doctrine and Covenants, and that I would see to it that it should be incorporated in the next edition of the Doctrine and Covenants to meet this objection.

"The CHAIRMAN. You are speaking of the manifesto?

"Mr. SMITH. Yes, sir.

"The CHAIRMAN. Pardon me a question right in the line of what Mr. Smith has been testifying about—speaking about the care of his children. Another statement you made is that you do not teach polygamy.

"Mr. SMITH. I do not understand the chairman.

"The CHAIRMAN. I understood you to say you were not teaching the doctrine of polygamy to your people.

"Mr. SMITH. That is right, and I should like to add in connection with the Senator's remarks here that I am not openly and obnoxiously practicing unlawful cohabitation.

"The CHAIRMAN. Right in this connection——

"Mr. SMITH. I have avoided that.

"The CHAIRMAN. Right in this connection, you say you are not teaching polygamy?

"Mr. SMITH. Yes, sir.

"The CHAIRMAN. How more forcibly could you teach it than by practicing it openly as the head of the church?

"Mr. SMITH. I am not practicing it openly.

"The CHAIRMAN. Are you practicing it secretly?

"Mr. SMITH. No, sir.

And, as if to emphasize their defiance and indifference, they elected a polygamist as an apostle since the Senate began to take testimony in this case. When the consideration of the successor of Apostle Woodruff was on, the name of Apostle Penrose, for many years editor of the Desert News, was proposed. He was one of the most conspicuous men in the church, one of the ablest men in the church, a man whom Senator Smoot knew, and must have known well, if he knew anybody.

[Testimony of Charles W. Penrose. (Vol. II, p. 254.)]

"CHARLES W. PENROSE, having been duly affirmed, was examined and testified as follows:

"Mr. TAYLER. You live in Salt Lake, Mr. Penrose?

"Mr. PENROSE. Yes, sir.

"Mr. TAYLER. What official position do you occupy in the church?

"Mr. PENROSE. I am at present one of the twelve apostles; since last July.

"Mr. TAYLER. You are editor of the Desert News?

"Mr. PENROSE. Yes, sir.

"Mr. TAYLER. How long have you been editor of that paper?

"Mr. PENROSE. I was connected with the editorial department in 1877, and have been most of the time since; but on two occasions, two years, I was on the Salt Lake Herald, and a couple of years in the church historian's office, and during that time I was not connected with the paper. But with those exceptions I have been connected with the paper right along.

"Mr. TAYLER. Are you a polygamist?

"Mr. PENROSE. Yes, sir.

"Mr. TAYLER. How many wives have you?

"Mr. PENROSE. My legal wife is dead, and I have two wives whom I recognize as my plural wives.

"Mr. TAYLER. So that you have not been married as the law de-

finer marriage—you understand what I mean by that—to either of your present wives?

“MR. PENROSE. No.

“MR. TAYLER. How long is it since your legal wife died?

“MR. PENROSE. Just about two years; two years the middle of next January.

“MR. TAYLER. You have children by your other wives?

“MR. PENROSE. Yes, sir.

“MR. TAYLER. By both of them?

“MR. PENROSE. No; only by one.

“MR. TAYLER. Is it by the first plural wife that you have had children?

“MR. PENROSE. Yes.

“MR. TAYLER. How many children have you had by her since 1890?

“MR. PENROSE. None.

“MR. TAYLER. How old is the youngest child?

“MR. PENROSE. Eighteen years old.

“MR. TAYLER. You became an apostle last July?

“MR. PENROSE. Yes.

“MR. TAYLER. Will you tell us how, in so far as you have knowledge of it, you came to be elected apostle?

“MR. PENROSE. I was selected by the presidency of the church and the other apostles—

“MR. TAYLER. Yes; go ahead.

“MR. PENROSE. Who were present in the meeting in the temple. I was chosen to be one of the twelve by them.

“MR. TAYLER. Were you present at the meeting?

“MR. PENROSE. No; I was not there until after the decision had been made.

“MR. TAYLER. Until after they had made their choice?

“MR. PENROSE. Yes.

“MR. TAYLER. Did you then meet with them?

“MR. PENROSE. Yes; I was sent for and informed that they had unanimously chosen me to fill the place made vacant by the death of Mr. Woodruff.

“MR. TAYLER. Where was it you met them when you were called for?

“MR. PENROSE. I met them in a room in the temple.

“MR. TAYLER. Was it the regular meeting place of the apostles?

“MR. PENROSE. Yes, sir.

“MR. TAYLER. Or was it on a ceremonial occasion?

“MR. PENROSE. It was the regular meeting place where they usually assemble when they have a meeting.

“MR. TAYLER. Who were there?

“MR. PENROSE. President Joseph F. Smith, President John R. Winder, President Anthon H. Lund, Francis M. Lyman, John Henry Smith, Rudger Clawson. I do not know whether Reed Smoot was present or not. I could not remember about that; but there were Hiram M. Smith and George A. Smith. They were all who were present.

“MR. TAYLER. Was George Teasdale there?

“MR. PENROSE. No, sir.

“MR. TAYLER. Why not, if you know?

- "Mr. PENROSE. I do not know. I did not inquire.
- "Mr. TAYLER. Was he in the country, if you know?
- "Mr. PENROSE. Not that I know of.
- "Mr. TAYLER. Was John W. Taylor there?
- "Mr. PENROSE. He was not.
- "Mr. TAYLER. Do you understand that he is out of the country?
- "Mr. PENROSE. That is my understanding of it, but I do not know of my own knowledge where he is.
- "Mr. TAYLER. Heber J. Grant was on a foreign mission?
- "Mr. PENROSE. He was in Europe, as I understand.
- "Mr. TAYLER. Was Apostle Merrill there?
- "Mr. PENROSE. No. I understood he was too sick to be present. He has not been in Salt Lake for a long time. He makes his home in Richmond.
- "Mr. TAYLER. You know those men were not there?
- "Mr. PENROSE. Oh, yes; I know they were not there.
- "Mr. TAYLER. You know that all the others were there except Mr. Smoot?
- "Mr. PENROSE. All that I mentioned. I will not be certain whether Mr. Smoot was there or not. I do not remember.
- "Mr. TAYLER. Mr. Smoot is the only member of the presidency and the twelve apostles concerning whom you are unable to speak definitely one way or the other. Is that right?
- "Mr. PENROSE. Yes; in regard to his presence.
- "Mr. TAYLER. In regard to his presence there?
- "Mr. PENROSE. Yes; I think he was there, but I am not sure.
- "Senator DUBOIS. Was Apostle Cowley there?
- "Mr. PENROSE. No, sir.
- "Senator DUBOIS. Where was he?
- "Mr. PENROSE. I do not know.
- "Mr. TAYLER. Is that all, Senator?
- "Senator DUBOIS. Yes.
- "Mr. TAYLER. You were elected, you say, in July, and your election came up to be sustained, or you were sustained, when, after that?
- "Mr. PENROSE. At the general conference in October.
- "Mr. TAYLER. And at that time you and all of the first presidency and the twelve apostles were unanimously sustained?
- "Mr. PENROSE. Yes; I believe so. I saw no contrary vote.
- "Mr. TAYLER. In the conference of your people which you hold twice a year, in April and October of each year—
- "Mr. PENROSE. Yes.
- "Mr. TAYLER. The assent is shown by lifting the hand?
- "Mr. PENROSE. Lifting the right hand.
- "Mr. TAYLER. Do you know whether Apostle Smoot was present at the October conference?
- "Mr. PENROSE. I think he was, but I am not positive about it. I believe he was.
- "Mr. TAYLER. Has he ever been present at a meeting of the apostles when you were present?
- "Mr. PENROSE. Yes, sir.
- "Mr. TAYLER. Do you know, Mr. Penrose, whether one of your wives has recently changed her name, her public name, so as to indicate that she is your wife?
- "Mr. PENROSE. I believe while I was in Mexico, that, having

moved her place of business—she is a doctor, a graduated doctor—she added the name of Penrose to her sign or to her advertisement in some way.

“MR. TAYLER. She had previously gone as a doctor by her name, the name which she had before she married you?”

“MR. PENROSE. Yes.

“MR. TAYLER. When were you married to her?”

“MR. PENROSE. March 11, 1886. I think that is the date.

“MR. TAYLER. Did you receive a special amnesty at the hands of President Cleveland?”

“MR. PENROSE. I did.

“MR. TAYLER. Was it coupled with the condition that you should thereafter obey the law?”

“MR. PENROSE. I believe it was.

“MR. TAYLER. That was the law respecting holding out more than one woman to be your wife, as well as the law against contracting new polygamous marriages?”

“MR. PENROSE. I do not remember the exact wording of the document, but it implied that, I suppose.

“MR. TAYLER. That was the effect of it?”

“MR. PENROSE. I suppose so.

“MR. TAYLER. You have not lived up to that condition, have you?”

“MR. PENROSE. No.”

He had been for years a polygamist, and had himself been pardoned by the president for polygamous cohabitation; yet Senator Smoot says that not a word was said in that discussion about it. John Henry Smith tells us the same thing. It illustrates the state of mind, gentlemen of the committee, in which the true Mormon gets. It is but another phase of the spirit of disregard and defiance of law, because their concerns are higher than the law.

This election was unanimous, and Senator Smoot participated in it.

[Testimony of Reed Smoot (Vol. III, p. 193).]

“MR. WORTHINGTON. A meeting of the presidency and the apostles held just before the conference of October 6, 1904.

“Now, while those matters are perhaps in your church considered private, I think the committee has a right to know what took place at that meeting, so far as you are concerned, in reference to the charges that have been made here against Apostle Taylor and Apostle Cowley, for instance.

“SENATOR SMOOT. Maybe I had better tell you about Mr. Penrose, as that was the first business that came up.

“MR. WORTHINGTON. Very well. Let me, then, ask you another question. At that conference Mr. Penrose was——

“SENATOR SMOOT. At that meeting.

“MR. WORTHINGTON. At that meeting he was proposed and at the conference he was sustained——

“SENATOR SMOOT. Yes, sir.

“MR. WORTHINGTON. As an apostle to take the place of Mr. Woodruff, who had died after the April conference?”

“SENATOR SMOOT. Yes, sir.

“MR. WORTHINGTON. And what was the state of your knowledge at the time of this assemblage in October last as to Mr. Penrose's matrimonial relations?”

"Senator SMOOT. At the meeting referred to I had no intimation whatever that there would be a nomination made that day, and I doubt very much whether there was one of the apostles who did. But at that meeting President Joseph F. Smith, whose right it was, nominated Charles W. Penrose as an apostle to fill the vacancy caused by the death of Abraham O. Woodruff, and in nominating him, or stating that it was his opinion that he was the proper person, he spoke of his labors and what he had done, and also of his fitness for the calling of an apostle and for the work that was more than likely to devolve upon the different members of the quorum; and he was sustained——

"Mr. WORTHINGTON. This matter may be of some importance, and if you recall the details of those remarks I should like to have you state them. What did he say about the work that might devolve upon the members of the quorum of apostles?

"Senator SMOOT. I have not thought of it since then, and I would not, perhaps, be able to give it in detail. But the substance, of course was that a good many of the older apostles were unable to go out and do very much preaching; that George Teasdale was very poorly, indeed—liable to drop off at any time; and Apostle Merrill could not get out, nor had he been out to a conference, as I remember, for years; and that the last appointments that had been made to the apostleship, from Clawson down, were young men; and that he thought that Charles W. Penrose, a man who was capable of writing, a good speaker, one that could help along that line, would be a proper man for the place.

"I did not object at all to Mr. Penrose's nomination, and at the time I thought that he only had one wife. But I do not want the committee to understand that I want to hide behind that at all, because I do not want to. I take this position: I think it proper and right, where a man was married before the manifesto, or, in other words, before there was any church law against it, that that man, when it comes to a church position, purely a church position, can accept any position in the church, for he did not violate any law of the church, and therefore is, or should be, qualified to fill the position in the church. I would qualify that by saying this, that I do not think that a man who was violating the law should hold a Government position, or an appointment from the Government; and I do not believe there is a single soul in our State who does."

Of the fifteen members constituting the first presidency and the twelve apostles, the following are shown to be now openly and notoriously living with plural wives:

President Joseph F. Smith, Apostles Francis M. Lyman, John Henry Smith, M. W. Merrill, John W. Taylor, M. F. Cowley, Heber J. Grant, and C. W. Penrose. These eight men have approximately 30 wives, or 22 plural wives. With not more than two exceptions, all of these plural wives were married after there was a specific law against it, and many of them were married after the United States Supreme Court had definitely decided that the law was constitutional, and at least five of the wives were taken since the manifesto:

"Apostle Abram H. Cannon to Lillian Hamlin.

"Apostle George Teasdale to Marian Scoles.

"Apostle John W. Taylor to Rhoda Welling.

"Apostle John W. Taylor to Roxy Welling.

"Apostle M. F. Cowley to Hattie Harker."

They offer no excuse for continuing to live with these plural wives and rearing children by them except that they contracted the relation with the approval of God, and against the law of the land, and that they are ready to suffer the consequences.

[Testimony of Joseph F. Smith (Vol. I, p. 129).]

"Mr. SMITH. If the committee will permit me, I could not answer the question yes or no.

"Mr. TAYLER. You can not answer it yes or no?

"Mr. SMITH. No, sir. I should like to explain that matter.

"Mr. TAYLER. I surely have no objection myself to your doing so.

"Mr. SMITH. Mr. Chairman, may I be permitted?

"The CHAIRMAN. Certainly; but be as brief as you can. You have a right to make your own answer.

"Mr. SMITH. In regard to the status of polygamists at the time of the manifesto, it was understood for some time, according to the investigation before the master in chancery, that they would abstain from associations with their families, and I think as a rule—of course I am not familiar with it and could not say from my own knowledge—that was observed. But at the time, at the passage of the enabling act for the admission of the Territory as a State, the only provision that was made binding for the admission of the State was that plural marriages should cease, and there was nothing said in the enabling act prohibiting the cohabitation of a man with his wives at that time.

"Senator HOAR. I do not want to interrupt you, but you mean, I suppose, with wives previously married?

"Mr. SMITH. That is what I mean. It was understood that plural marriages had ceased. It has been the continuous and conscientious practice and rule of the church ever since the manifesto to observe that manifesto with regard to plural marriages; and from that time till to-day there has never been, to my knowledge, a plural marriage performed in accordance with the understanding, instruction, connivance, counsel, or permission of the presiding authorities of the church, or of the church, in any shape or form; and I know whereof I speak, gentlemen, in relation to that matter.

"Mr. TAYLER. That is all of your answer?

"Mr. SMITH. What was your question?

"The CHAIRMAN. Now let the reporter repeat the question.

"Mr. SMITH. Excuse me; I think I have the thread: Was it contrary to the rule of the church? It was.

"Mr. WORTHINGTON. What was?

"Mr. SMITH. That is, the association of a man, having married more than one wife previous to the manifesto, abstaining from association with them.

"The CHAIRMAN. I do not think you understand the question. Let the reporter read it.

"The reporter read as follows:

"Mr. TAYLER. Is the cohabitation with one who is claimed to be a plural wife a violation of the law or rule of the church, as well as of the law of the land?"

"Mr. SMITH. That was the case, and is the case, even to-day.

"Mr. TAYLER. What was the case; what you are about to say?

"Mr. SMITH. That it is contrary to the rule of the church and contrary as well to the law of the land for a man to cohabit with his wives.

"But I was placed in this position. I had a plural family, if you please; that is, my first wife was married to me over thirty-eight years ago, my last wife was married to me over twenty years ago, and with these wives I had children, and I simply took my chances, preferring to meet the consequences of the law rather than to abandon my children and their mothers; and I have cohabited with my wives—not openly, that is, not in a manner that I thought would be offensive to my neighbors—but I have acknowledged them; I have visited them. They have borne me children since 1890, and I have done it, knowing the responsibility and knowing that I was amenable to the law.

"Since the admission of the State there has been a sentiment existing and prevalent in Utah that these old marriages would be in a measure condoned. They were not looked upon as offensive, as really violative of law; they were, in other words, regarded as an existing fact, and if they saw any wrong in it they simply winked at it. In other words, Mr. Chairman, the people of Utah, as a rule, as well as the people of this nation, are broad-minded and liberal-minded people, and they have rather condoned than otherwise, I presume, my offense against the law. I have never been disturbed. Nobody has ever called me in question that I know of, and if I had, I was there to answer to the charges or any charge that might have been made against me, and I would have been willing to submit to the penalty of the law, whatever it might have been.

"Mr. TAYLER. So that obedience to the law is perfectly satisfied, according to your view of it, if one is ready to pay the penalty for its violation?

"Mr. SMITH. Not at all. I should like to draw a distinction between unlawful cohabitation and polygamy. There is a law prohibiting polygamy, plural marriages.

"Senator HOAR. You mean now a law of the State of Utah?

"Mr. SMITH. I mean the law of the State, and I mean that this is in the constitution of our State. It is required by the enabling act. That law, gentlemen, has been complied with by the church; that law has been kept by the church; and there never has been a plural marriage by the consent or sanction or knowledge or approval of the church since the manifesto.

"The law of unlawful cohabitation is another law entirely and relates to the cohabitation of a man with more than one wife. That is the law which I have presumed to face in preference to disgracing myself and degrading my family by turning them off and ceasing to acknowledge them and to administer to their wants—not the law in relation to plural marriage. That I have not broken. Neither has any man broken it by the sanction or approval of the church.

"Mr. TAYLER. You say that there is a State law forbidding unlawful cohabitation?

"Mr. SMITH. That is my understanding.

"Mr. TAYLER. And ever since that law was passed you have been violating it?

"Mr. SMITH. I think likely I have been practicing the same thing even before the law was passed.

"Mr. TAYLER. Yes.

"Mr. SMITH. Long years before it was passed.

"Mr. TAYLER. You have not in any respect changed your relations to these wives since the manifesto or since the passage of this law of the State of Utah. I am not meaning to be unfair in the question, but only to understand you. What I mean is, you have been holding your several wives out as wives, not offensively, as you say. You have furnished them homes. You have given them your society. You have taken care of the children that they bore you, and you have caused them to bear you new children—all of them.

"Mr. SMITH. That is correct, sir.

"Mr. TAYLER. That is correct?

"Mr. SMITH. Yes, sir.

"Mr. TAYLER. Now, since that was a violation of the law, why have you done it?

"Mr. SMITH. For the reason I have stated. I preferred to face the penalties of the law to abandoning my family.

"Mr. TAYLER. Do you consider it an abandonment of your family to maintain relations with your wives except that of occupying their beds?

"Mr. SMITH. I do not wish to be impertinent, but I should like the gentleman to ask any woman, who is a wife, that question.

"Mr. TAYLER. Unfortunately, or fortunately, that is not the status of this examination at this point.

"Mr. SMITH. All the same; it is my sentiment.

"Senator FORAKER. I do not see how investigation along that line is going to give us any light. What we want are facts. The witness has testified to the fact. This is all a matter of argument and discussion—the effect of it, or what his opinion is about it. It is our opinion we are concerned about.

"The CHAIRMAN. Mr. Tayler, confine yourself to the question of fact.

"Mr. TAYLER. Will the Chair permit a word?

"The CHAIRMAN. Certainly.

"Mr. TAYLER. I do not know whether the inference to be drawn from the state of facts is sufficiently clear, or whether it would be proper to pursue it further. But I take it that it is to the last degree important to understand what lies at the foundation of the acknowledged and professed and defiant violation of the written law of the land, coupled with a mere expression of willingness to accept the consequences of that violation. That is all. That was contended for by Joseph F. Smith prior to 1890, and by the long line of saints that preceded him.

"Mr. SMITH. I be your pardon.

"Mr. WORTHINGTON. Just a moment, Mr. Smith.

"Mr. TAYLER. And therefore it strikes me that an explanation from this man who is the spiritual head of the church, the immediate superior of Senator Smoot, the man who receives divine revelations respecting the duty and conduct of the whole body of the church, as to why he thus defiantly violates that law, is pertinent and important.

"Senator BEVERIDGE. But he gave his explanation.

"Mr. TAYLER. If that is all of his explanation of course I can not complain, but I do not think it is.

"Senator FORAKER. This is the only point of the objection. The

witness stated the fact that he is cohabiting still with plural wives notwithstanding the law, and he told us why. Now, it seems to me, we should not enter into a discussion as to whether or not that is good morals, or whether or not that is faithful allegiance to the law. That is something which the committee will determine.

"Senator DUBOIS. May I ask a question?

"Senator HOAR. May I make a motion, Mr. Chairman?

"The CHAIRMAN. Certainly.

"Senator HOAR. It is that this inquiry be not allowed at present, and that if it shall appear to the committee hereafter that there is doubt about the truthfulness of Mr. Smith's statement, which he has already made, as to the discontinuance of the actual practice of new plural marriages, the counsel be permitted to renew his application to put the question at a later time. I suggest, therefore, that the question be not allowed now and that the committee will take it up under a changed condition of things hereafter.

"Senator DUBOIS. I should like to be permitted to ask the witness one question, which I think will not provoke any controversy. Was it not understood and stated by the judges and those in authority, and was it not understood by all living in that country—Utah and Idaho and Wyoming, etc., where these practices existed—that it was the duty of polygamists to continue to provide for and support their polygamist wives and children after the manifesto was issued?

"Mr. SMITH. That was generally understood.

"Senator DUBOIS. We all—I, for one, at least—understood that it was their duty to provide for and take care of their wives and children in a material way.

"The CHAIRMAN. Mr. Taylor, proceed.

"Senator BEVERIDGE. What becomes of the motion of the Senator from Massachusetts?

"Senator FORAKER. It was more in the nature of a suggestion in the Senator's mind that counsel be not allowed to ask the questions now, because of the present state of evidence, and that if, because of a change in the state of the evidence, the committee should deem the question pertinent, the counsel could recall the witness.

"Senator HOAR. I suggested it in order to save time.

"The CHAIRMAN. Mr. Tayler, suppose you withdraw the question.

"Mr. TAYLER. I withdraw the question for the time being.

"Mr. WORTHINGTON. Mr. Chairman, I should like to say, in reference to the question asked by counsel as to what the witness might do with his wives without violating the law, that in the case of Cannon v. The United States and in the case of Snow v. The United States, which came before the Supreme Court, the Cannon case in 1885, that court decided—

"Senator HOAR. My suggestion was made with a view to stopping this discussion.

"The CHAIRMAN. We will never get through if it is to continue. Mr. Tayler, will you proceed with the examination of this witness?

"Mr. TAYLER. Mr. Smith, how many children have been born to your several wives since the manifesto of 1890?

"Mr. WORTHINGTON. I object to that. He professes that he has been living with them. What difference does it make whether it is one child or three?

"Mr. TAYLER. Of course it will be important as showing how continuous, how notorious, how offensive, has been his conduct in this respect.

"Senator FORAKER. The committee must necessarily infer from what the witness stated that this cohabitation has been continuous and uninterrupted.

"Senator BEVERIDGE. He so stated.

"Mr. TAYLER. Precisely; but not how well advertised, how offensive, how instructive it has been to his people; how compelling.

"Senator BEVERIDGE. I understood the witness to say that he had children born to him since that time."

This hierarchy has taken no steps looking to the criticism or discipline or prosecution of any of the large number of men living with polygamous wives. We have their own statement here, put in yesterday—I know not how accurate it is, except that so far as they admit it it must be true—that some 50 or 75 of their officials to-day are living in polygamy.

Mr. WORTHINGTON. No; are polygamists, and it was expressly stated it was not admitted that they are living in polygamy.

Mr. TAYLER. Well, whenever I have run a polygamist to the ground, I have found in every case that he was living in polygamy.

This hierarchy has not shown any signs of interest, except in this single recent case of Cowley, taken long after this dispute arose, nor has it made any inquiry concerning the numerous cases of reputed new polygamous marriages or concerning proved cases of new polygamous marriages. I made the exception, I see, in what I had written: Except the statement that recently an inquiry has been started to learn the truth concerning Apostles Taylor and Cowley.

President Smith (then Apostle Smith) when confronted by Apostle Abraham Cannon and his new plural wife said nothing, offered no criticism, made no complaint; nor has anybody that we know of made any serious complaint—any, I mean, of the hierarchy—notwithstanding the multiplied evidences that such have occurred. On the contrary, while they have undertaken to make the impression upon this committee and upon the country that they hold up their hands in righteous indignation and holy horror against the mere thought that new plural marriages have occurred, they are as dumb as dead Julius Cæsar as respects any practical criticism of it or any attempt to punish it. Its members have constantly declared their belief in the divinity and propriety of plural marriage, although pretending that the practice has been suspended; and President Joseph F. Smith has publicly, among his followers and to Senator Smoot, stated that the righteousness of polygamy could no more be denied than any other dogma of the church.

[Testimony of Joseph F. Smith (Vol. I, p. 191).]

"Mr. TAYLER. You were at the Weber stake reunion last summer sometime?

"Mr. SMITH. The Weber stake reunion? I can not recall it just at the present time.

"Mr. TAYLER. Do you remember making a speech down there last summer at Ogden?

"Mr. SMITH. I could not say it was last summer, but I recollect

being at Ogden at a reunion there and making some remarks at that reunion.

"Mr. TAYLER. I perhaps can identify the occasion; not that the circumstance is important, but it interested me, as you can imagine. It was when Mrs. Bathsheba Smith made some remarks in a reminiscent way.

"Mr. SMITH. Yes, sir; that is right.

"Mr. TAYLER. Mr. Smoot was there?

"Mr. SMITH. I do not remember that he was. He may have been there.

"Mr. TAYLER. Do you remember saying in your speech, made to your people there, this—

"The CHAIRMAN. On what date?

"Mr. TAYLER. June 12, 1903.

"Senator HOAR. What paper is that?

"Mr. TAYLER. I was just going to state, so that the witness should know. It seems to have been June 12 when this reunion occurred. The communication is dated from Ogden, June 20, and I find what I am about to call his attention printed in the Deseret News of Thursday, June 23, 1903. So I ask you if you said this—or in substance this—in your remarks:

" 'A LIVING WITNESS.

" 'Aunt Bathsheba, widow of George A. Smith, who is with us today, is the last living witness, so far as I know, who received her endowments while Joseph Smith was living. Here is Aunt Bathsheba, who received her endowments in Nauvoo as they are now given in the temples. She is a living witness, and, if necessary, she will tell us that she received her endowments at Nauvoo as they are now given in the temples. She is a living witness, and, if necessary, she will tell us that she received these privileges under the direction of Joseph Smith. Opponents say that Brigham Young established the endowments and also plural marriage, but here is a witness who knows better. Brigham Young only sought to carry out the instruction he received from Joseph Smith, and Joseph Smith as he received it from God. So far as the principle of plural marriage itself is concerned, we are not teaching it nor practicing it; but we are taking care of our wives, and I honor the men who take care of them and who are true to them.

" 'I would not like to sit in judgment on any of my brethren who are not true to their families, and yet I do not think I would be more severe upon them than the Great Judge would be. I have made no covenants that were not made in good faith, and I will keep them so far as I can. When it comes to the principle itself, I can defend it as a principle of purity, strictly in accordance with the Gospel. To be a Latter-Day Saint one must be honest with himself, with his neighbors, and with his God. I have received a testimony of the truth of the principles of the Gospel, and I will try to keep them. Joseph Smith revealed plural marriage and the endowments, and here is a living witness to those facts. So am I, for I received it of those who received it from Joseph Smith. Now, am I telling you that plural marriage is practiced or is to be practiced? No; I am only telling you that it is a principle revealed by God to Joseph Smith, the prophet,

and the Latter-Day Saint who denies and rejects that truth in his heart might as well reject every other truth connected with his mission. Every man and woman will get his or her reward, for God is just and deals out justice with mercy.'

"Now, just read the question so that Mr. Smith can understand its form.

"The reporter read as follows:

"Mr. TAYLER. Do you remember saying in your speech, made to your people there, this—'

"Mr. SMITH. Mr. Chairman, the words 'your people' there are misleading. This occurred in a select gathering of a few persons, a few individuals, and there were only a few there of the leading authorities of the Weber Stake of Zion, and it was not a public gathering at all, nor were those remarks in the light of a public address. They were made, and I acknowledge that I made them, and I think I am correctly reported by the paper, as Mr. Tayler has read them.

"The CHAIRMAN. That answers the question.

"Mr. TAYLER. That answers it.

"I have no doubt your statement as to the character of this meeting is correct. Let me read you the newspaper statement of its character, which, perhaps, will disclose it to all of us. It is this:

"The presidency of the stake, the bishops of the 25 wards and their counselors, the members, alternates, and clerk of the high council, the patriarchs, the presidency of the high priest's quorum, the superintendencies and presidents of the various auxiliary organizations (the Sunday school, Y. M. and Y. L. M. I. associations, relief society, religion classes, and primary), and the stake clerk, with a few other leading brethren, all with their wives or husbands, composed the list of invited guests from Weber Stake, and almost every one of those invited was in attendance. Of the visiting brethren and sisters from Salt Lake City there were present President Joseph F. Smith and members of his family; President Anthon H. Lund, Patriarch John Smith and wife, Apostles Rudger Clawson, wife, and mother, Abraham O. Woodruff and wife, accompanied by Sister Asahel Woodruff, Reed Smoot and wife, and Hyrum M. Smith and wife; Sister Bathsheba Smith, William Spence and wife, William Salmon and wife, Joseph F. Smith, jr., and wife. President Charles Kelly and Counselor Oleen N. Stohl, of the presidency of the Boxelder Stake were also in attendance.'

"Mr. SMITH. Yes, sir; I think that is correct.

"Mr. TAYLER. That correctly describes the character of the meeting and who the people were who were there?

"Mr. SMITH. Yes, sir.

"Senator FORAKER. I understood you to say there were not more than a dozen people present?

"Mr. SMITH. There were more than that, Senator. There were probably 50.

"Senator FORAKER. I should say so, if all were present who are described in that paper.

"Senator HOAR. I should like to know—if you will ask him, or I will—if that purports to be a verbatim report, published in the paper, of what he said.

"Mr. SMITH. No, sir; it is not a verbatim report.

"Senator HOAR. I understood you to say you said it in substance.

" Mr. SMITH. I said that in substance.

" Senator HOAR. I merely put this question with a view of shortening the inquiry.

" Mr. SMITH. Yes.

" Senator HOAR. It was made to this audience, whoever they were, and was published in the Deseret News. Was it published with your approval?

" Mr. SMITH. I did not know anything about its being published at all. I was not consulted about its being published, and I knew nothing about it until after it was published. That is simply a newspaper report of the meeting.

" Mr. TAYLER. Now, Mr. Chairman—

" Senator DUBOIS. Mr. Tayler, I beg your pardon for just a moment.

" Mr. TAYLER. Certainly.

" Senator DUBOIS. You had no objection to its being published?

" Mr. SMITH. If I had been consulted I would have advised the newspaper reporter not to have published it.

" Senator DUBOIS. They would not have published it had you advised them not to publish it?

" Mr. SMITH. I do not think they would—that is, I do not think the Deseret News would.

" Senator DUBOIS. It would not have been published without the sanction of the authorities of the church? They would not knowingly and willfully publish anything without the sanction of the church?

" Mr. SMITH. Of course they would; publish everything that is news.

" The CHAIRMAN. I understand Mr. Smith has answered the question.

" Mr. TAYLER. Now, Mr. Chairman, I think that, for the more intelligent guidance of the committee in gathering these facts together, as well as in justice to the other side, who are about to cross-examine Mr. Smith, we ought to read those things which we especially rely upon in the publications of the church to which reference has been made, and which have been identified.

" The CHAIRMAN. Proceed, Mr. Tayler.

" Senator OVERMAN. One moment. Why would you have objected to publishing that speech?

" Mr. SMITH. Because I have avoided studiously saying anything in public that could be construed in the least as advocating even the rightfulness or truthfulness of plural marriage. I have avoided it. Therefore I would not have advised its publication if I had been consulted.

" Senator HOAR. I should like to ask one question. Why, Mr. Smith, would you have avoided advocating what I understand was received by your church as a divine command?

" Mr. SMITH. Because it had been stopped by a more recent manifesto, I may say, of the president of the church.

" Senator HOAR. If I understand you, the obligation to practice plural marriage had been dispensed with, but the divine teaching that polygamy was right in itself had not been rescinded, had it?

" Mr. SMITH. No, sir.

" Senator HOAR. Then why would you abstain from impressing

upon the public the divine teaching that polygamy, though not to be practiced at present, was still of divine origin and authority?

"Mr. SMITH. So as to avoid giving any public offense.

"Senator HOAR. Is it, in your judgment, a good reason for abstaining to make known to mankind a commandment of the Lord, that it may give public offense—the teaching of the Lord?

"Mr. SMITH. When it comes to matters that we are at liberty to proclaim, and that there is no injunction upon us against proclaiming, I think not. But in this particular instance we are under injunction not to teach it.

"Senator HOAR. Not to teach it?

"Mr. SMITH. Yes, sir; not to teach it publicly, or in any other way, for that matter.

"Senator BEVERIDGE. Does the fact that it is against the law of the land have anything to do with it?

"Mr. SMITH. Yes, sir.

"Senator HOAR. I am not quite through.

"Senator BEVERIDGE. Excuse me.

"Senator HOAR. I understand you are under injunction not to teach it publicly or in any other way, but this utterance of yours was teaching it privately, was it not?

"Mr. SMITH. No, sir. It was simply announcing my own belief in it, notwithstanding it was stopped, and my principal object, the main object I had in view, was this: There are a large number of people who claim that plural marriage was introduced by Brigham Young, and that the endowments were introduced by Brigham Young, whereas I knew that both of these were introduced by Joseph Smith; and I also knew that Bathsheba W. Smith, my aunt, was now about the only living witness of that fact, and I availed myself of the opportunity of her presence in that assembly to announce that she was a living witness that it was Joseph Smith who introduced these principles instead of Brigham Young.

"Senator HOAR. As a matter of history?

"Mr. SMITH. As a matter of history. That is all I had in view.

"Senator HOAR. But what I do not quite understand is how, if you were under a divine commandment not to teach publicly or in any other way the rightfulness of polygamy as a principle, although the practice was suspended for a time, you, to this assembly of important personages, were proclaiming your belief in it?

"Mr. SMITH. Certainly.

"Senator HOAR. Is not that a pretty important way of teaching a doctrine, if the head of the church states he believes in it?

"Mr. SMITH. I told the committee, in answer to that question here before the committee, if you please, that I believe in that principle to-day as much as I ever believed in it. But I do not believe in continuing its practice, because I have accepted in good faith the proclamation of President Woodruff stopping the practice of plural marriage. It does not change my belief one particle.

"Senator HOAR. But I was speaking of your teaching the rightfulness of it. I understood you to say—

"Mr. SMITH. I did not teach it. That was not the intent at all. I was merely expressing my own belief in it."

It has been testified that no officer or teacher in the church ever

denies this, but it is insisted that they do not deliberately undertake to advocate it, although if the doctrine is attacked, it is defended.

The revelation respecting plural marriage remains in the Book of Doctrine and Covenants without footnote or other reference, and the revelation suspending the practice has not been added to the book, but is, we are told, published separately.

In the Improvement Era, edited by Joseph F. Smith and other prominent members of the church, an article appears as late as 1898, in which it was ingeniously and laboriously undertaken to establish the righteousness of polygamy; and the little book to which reference was made a few days ago, made, published, and issued after the manifesto for the purpose of use by missionaries, contains a most adroit, skillful, persuasive, striking argument in favor of polygamy and of its righteousness.

[Testimony of Joseph F. Smith (Vol. I, p. 227).]

"Now I call attention to the work entitled 'Mormonism. The Relation of the Church to Christian Sects. Origin and History of Mormonism. Doctrines of the Church. Church Organization, Present Status. By B. H. Roberts. Published by the Church. Deseret News Print, Salt Lake City.'

"That is the title page. On page 65 of this document appears the statement—

"The CHAIRMAN. Mr. Tayler, as to B. H. Roberts, referred to there. What Roberts is that?

"Mr. TAYLER. That is Brigham H. Roberts, if that is any more definite.

"Senator BAILEY. Who was once refused permission to take his oath as a Representative?

"The CHAIRMAN. Is that the Roberts?

"Mr. TAYLER. That is the same one, I believe, Senator Bailey.

"Senator BAILEY. I voted to seat him.

"Mr. TAYLER. Yes, I know.

"On page 65 is appears that the date of this publication was 1902. On the opposite side of the leaf from the title are these words:

"'Copyrighted by Joseph F. Smith for the Church of Jesus Christ of Latter-Day Saints.'

"On the first page is 'A word with the reader.' The opening sentence is as follows:

"'This brochure is issued under the authority of the Church of Jesus Christ of Latter-Day Saints. It is therefore an authoritative utterance upon the subject of which it treats.'

"I read now from page 31, under the chapter of 'Origin and history of Mormonism:

"'As a rule it has been the policy of sectarian ministers to denounce the Mormon leaders, whom the Mormon people held in highest esteem for their unselfish devotion to the general welfare of the Church, and the purity and integrity of their lives; and instead of hearing what sectarian people would consider the more pure doctrines of the Christian religion expounded, Mormons were treated to a derision of their own faith, to them sacred and divine. The Church of Jesus Christ of Latter-Day Saints being attacked by these parties both political and religious (and they generally made common cause against the Mormons) the Mormon people were compelled to unite for self-pres-

ervation, and hence arose in Utah what must ever be regarded as an anomaly in American politics, viz, a church and anti-Church party.

"This led many honest people to the supposition that Mormons believed in the union of church and state under our form of government; which, however, has no other foundation for it than these seemings which arose from the conditions here explained. The unnatural and undesirable contest was continued until it was seen that such a course was retarding the material interests of the Territory, and was hindering Utah from taking the political station in the Union to which both the resources of the Territory and the character of her people entitled her. Wiser counsels prevailed; the unprofitable conflict between Church and anti-Church party was abandoned, and all united in a demand for statehood which finally was granted, Utah being admitted into the Union in the year 1896."

"Page 45, Paragraph IX. The heading of that paragraph is this:

"We believe all that God has revealed, all that He does now reveal and we believe that He will yet reveal many great and important things pertaining to the kingdom of God."

"And it reads as follows:

"From this it will be seen that the Latter-day Saints are as far from believing that the fountain of revelation is dried up as they are that the Bible alone contains all the revelations God has given to man. The theory that revelations, the visitations of angels, the enjoyment of the spirit of prophecy, were all to cease when the Church of Christ was fully established by the ministry of the Apostles, is one of the inventions of the apostate churches to excuse the absence of these divine spiritual powers in the godless institutions which usurped the place of the Church of Christ long centuries ago.

"In the faith of the Latter-day Saints, it is the privilege and right of the Church of Christ forever to be in continuous and constant spiritual communication with her Spouse, the Lord; which, however, she can only possess by the enjoyment of continuous revelation, the visitation of angels, and the possession of the Holy Ghost, which is the testimony of Jesus, which is the spirit of prophecy. Instead of teaching that the day of revelation and the visitation of angels has ceased, it is the mission of the Church to bear witness that these spiritual privileges are to be more and more enjoyed, until all things in heaven and in earth shall be gathered together in one, in Christ Jesus Our Lord; and to proclaim to the world that it is the morning rather than the evening of revelation from God to man; and that as the heavens are full of days, so too are they full of light and knowledge to be revealed unto the children of men in God's own due time; and while the Church of Jesus Christ of Latter-day Saints reverently believes all that God has revealed, as well to men in the Western Hemisphere as to men in the eastern world, she looks confidently forward to still greater revelations in the future than has been given in the past."

"Page 48, Chapter XII. The italicized words are, I believe, part of the creed.

"Senator BEVERIDGE. Mr. Tayler, what is this that you are now reading from designed to show? I see the pertinence of the former things, but what is the pertinence of this you are reading now?

"Mr. TAYLER. What I have just read?

"Senator BEVERIDGE. The whole thing you had read in the book. What is the point you are trying to establish?

"Mr. TAYLER. I have conceived it is important for us to understand what was the meaning of their dogma of revelations and constant communication and contact with the Almighty. I conceive that that is a very important thing, as indicating the power and authority of the church, as accepted by its people, and the domination of one who claims to have received divine revelations over those who are supposed to be subject to them when received.

"Senator BEVERIDGE. That would apply, then, equally to any member of this church?

"Mr. TAYLER. It might.

"Senator BEVERIDGE. So that if you consider that point valid, then any member of this church could not be fit to sit as a United States Senator, so far as this particular quotation is concerned and the point you wish to establish by it?

"Mr. TAYLER. No; it would not apply with anything like equal force to a member of the church as to an apostle, because surely whatever anybody in the church can believe or stand for an apostle must stand for; but we have already heard from Mr. Smith of the liberty of conscience and belief with which the body of the church may be properly endowed.

"This is Chapter XII:

"We believe in being subject to kings, presidents, rulers, and magistrates, in obeying, honoring, and sustaining the law."

"And on page 49, at the bottom of the page, after quoting on the subject of obedience to laws, the text is:

"Such have been and are the views of the Latter-Day Saints relative to laws and governments in general, and man's duty to obey the constituted authority of civil government. If in the history of the Church there has been any apparent deviation from the principles here announced, and which have been proclaimed by The Church, at least from the year 1835, when they were adopted by the spiritual authorities of The Church at Kirtland, Ohio, it has been for the reason that laws have been enacted against the practice of religious principles which God revealed to his Church; and upon the Latter-Day Saints devolved the duty of contending in a lawful manner for the right to practice the principles which God has revealed to them, as well as to believe them. Under such circumstances only has there been any conflict between The Church of Jesus Christ of Latter-Day Saints and the civil authorities of any government."

"On page 53:

"The marriage system of the church."

"I read from the bottom of the page:

"In such a presentation of Mormonism as it is desired this brochure shall be, something of incompleteness would attach to it if nothing be said concerning the marriage system of The Church. In common with the Christian sects the Latter-Day Saints in the early years of the Church's existence, regarded marriage vaguely as an institution to exist in this world only; and married as Christian professors now do until death doth them part; but by the revelation on marriage given through the prophet Joseph Smith, the Saints learned that in celestial spheres the marriage relation exists eternally; and that the pleasing joys of family ties and associations, coupled with the power of endless increase, contributes to the power, happiness, and dominion of those who attain to the celestial glory.

“What a revelation was this. Instead of the God-given power of procreation being one of the things to pass away, it is one of the chief means of man's exaltation and glory in eternity. Through it men attain to the glory of an endless increase of eternal lives, and the right of presiding as priest and patriarch, king and lord, over his ever increasing posterity. Instead of the commandment “Multiply and replenish the earth” being an unrighteous law, to be regarded askance, and as something evil, it is one by which the race of man is to be eternally perpetuated; and is as holy and pure as the commandment “repent and be baptized.”

“Going to the bottom of page 54:

“Celestial marriage also includes, under certain conditions, restrictions, and obligations, a plurality of wives. Such prominence indeed has been given to this feature of the marriage system of the church that to a great extent it has obscured the grandeur and importance of the principle of the eternity of the marriage covenant. Plurality of wives, of course, was as great an innovation in the marriage system of the world as marriage for eternity was. It comes in conflict, too, not only with the education and traditions of the modern world, but in conflict with the prejudices of the Saints themselves; yet God had commanded its introduction into the world, and though the prejudices of the Saints revolted against it, the faithful to whom it was revealed resolved to obey it, and in the introduction of this principle of the marriage system of the church the prophet Joseph Smith himself led the way.

“Then follows a statement, historically correct, I do not doubt, referring to the passage of the several laws and the decision of the court and the prosecution of many persons for polygamy and polygamous cohabitation; and finally, on page 56, at the bottom:

“Meantime Government was relentless, and still more stringent measures than those already enacted were threatened. In the midst of these afflictions and threatening portents President Wilford Woodruff besought the Lord in prayer, and the Lord inspired him to issue the manifesto which discontinued the practice of plural marriage. At the semiannual conference in October following, the action of President Woodruff was sustained by unanimous vote of the conference, and plural marriages were discontinued in the church. In the matter of plural marriage the Latter-Day Saints are neither responsible for its introduction nor for its discontinuance. The Lord commanded its practice, and in the face of the sentiment of ages and in opposition to the teachings of their own traditions many of the Saints obeyed the commandment, and in the midst of weakness, difficulties, and dangers sought to carry out that law as revealed to them. * * *

“If the labors and sufferings of the Church of Christ for this principle have done nothing more, this much at least has been accomplished—the Saints have borne testimony to the truth. And it is for God to vindicate His own law and open the way for its establishment on the earth, which doubtless He will do when His Kingdom shall come in power and when His will shall be done in earth as it is in heaven.

“Mr. WORTHINGTON. You have omitted certain passages on that page. Will you put it all in?

“Mr. TAYLER. Oh, yes; it will all be put in by the reporter.

All these things are significant in view of the fact that one word from the hierarchy would stop it all. Its profession and its practices have been consistent in this respect, namely: That polygamous marriages are divinely right, and polygamous cohabitation is right. The head of the church has declared that to continue to live with his plural wives in defiance of law is righteousness, and speaking of the suggestion that he could have obeyed the law by not continuing to bring forth children by plural wives, he said, as recently as June, 1903, to a company of which Reed Smoot was one:

"We are taking care of our wives, and I honor the men who take care of them and are true to them."

A distinction is made by these men between taking care of their wives and being true to them. President Smith was true to all of his plural wives by cohabiting with them and rearing children by them since the manifesto.

He continued his reference to those who had plural wives as follows (this is another instance than that to which I referred a while ago):

"I would not like to sit in judgment on any of my brethren who are not true to their families, and yet I do not think I should be more severe on them than the Great Judge would be."

A most significant illustration of the power exercised by the president is found in the fact that he has the power to divorce after death. The husband who has considered that his chief claim to glory in the next world will consist of his wives and children knows that after he dies even this may be denied him if the president of the church so wills it.

[Testimony of George Reynolds. (Vol. II, p. 28.)]

"Senator FORAKER. Are these divorce proceedings confined to the living? You spoke of marriages after death.

"Mr. REYNOLDS. I have known very rarely of a woman seeking to be separated from her husband after he was dead, and the president of the church hearing her statement has directed that the marriage be canceled on the records.

"Senator FORAKER. Do you say you have heard of that frequently or infrequently?

"Mr. REYNOLDS. No, sir; not frequently. Once in a long while."

The obligation taken in the endowment ceremonies of the church is unpatriotic and treasonable.

[Testimony of A. W. Lundstrom (Vol. II, p. 153).]

"Mr. TAYLER. Can you give us the obligation of retribution?

"Mr. LUNDSTROM. I can.

"Mr. TAYLER. You may give that.

"Mr. LUNDSTROM. 'We and each of us solemnly covenant and promise that we shall ask God to avenge the blood of Joseph Smith upon this nation.' There is something more added, but that is all I can remember verbatim. That is the essential part.

"Mr. TAYLER. What was there left of it? What else?

"Mr. LUNDSTROM. It was in regard to teaching our children and children's children to the last generation to the same effect.

"Mr. TAYLER. Teach that obligation?"

"Mr. LUNDSTROM. Teach that obligation."

"Mr. TAYLER. Was the obligation taken in both temples in the same words and on all of these days?"

"Mr. LUNDSTROM. Yes, sir."

* * * * *

[Testimony of J. H. Wallis (Vol. II, p. 79).]

"* * * * *; and another vow was what we used to call the 'oath of vengeance.' I do not know whether I have it right or not—that we would never cease to importune High Heaven to take vengeance on the inhabitants of the earth for the murders of the prophets. I do not know whether I have it exactly right, but that is the substance of it."

"Mr. TAYLER. Stand up, if it will help you, and give us the words, if you can."

"Mr. WALLIS (standing up). 'That you and each of you do promise and vow that you will never cease to importune High Heaven to avenge the blood of the prophets upon the nations of the earth or the inhabitants of the earth.'"

* * * * *

"Mr. WALLIS. Yes, sir; or words to that effect. I made one slight mistake yesterday."

"Mr. WORTHINGTON. I suppose any witness has a right to correct mistakes."

"The CHAIRMAN. You can correct it if you desire."

"Mr. WALLIS. In repeating the obligation of vengeance I found that I was wrong."

"The CHAIRMAN. I can not hear what you say. Please stand up."

"Mr. WALLIS. In repeating the obligation of vengeance I find I made a mistake; I was wrong. It should have been 'upon this nation.' I had it 'upon the inhabitants of the earth.' It was a mistake on my part."

[Testimony of Annie M. Elliott, Vol. II, p. 189.]

"As the ceremony went on were there different obligations taken?"

"Mrs. ELLIOTT. Yes, sir."

"Mr. TAYLER. Do you remember what was the first one that was taken?"

"Mrs. ELLIOTT. I think I do, but I don't know if I am capable of speaking it."

"Mr. TAYLER. Well, whatever you can remember about the first one, Mrs. Elliott, or any of them that you remember. I do not care what it was."

"The CHAIRMAN. Take your own time, Mrs. Elliott. Do not be embarrassed."

"Mrs. ELLIOTT. The first one was, when we came to a certain place, if we didn't want to go any further and take those oaths it was to turn back and go out."

"Mr. TAYLER. That was after you had gone on for some time, was it?"

"Mrs. ELLIOTT. Yes; a short time."

"Mr. TAYLER. Then what is the next thing that you remember about that?"

"Mrs. ELLIOTT. It was where we took the oaths then, which I think it is very embarrassing for me to say them.

"Mr. TAYLER. Tell us what you remember.

"Mrs. ELLIOTT. One, I remember, they told me to pray and never cease to pray to get revenge on the blood of the prophets on this nation, and also to teach it to my children and children's children."

[Testimony of H. M. Dougall (Vol. II, p. 759).]

"Mr. WORTHINGTON. I want to ask you whether you, or any of those who went through with you, to your knowledge, were called upon to agree to what I now read, or to it in substance:

"That you, and each of you, do promise and vow that you will never cease to importune High Heaven to avenge the blood of the prophets upon this nation?"

"Mr. DOUGALL. No, sir.

"Mr. WORTHINGTON. Did anything like that occur?

"Mr. DOUGALL. Well, as I remember, there is something that might possibly have resembled that.

"The CHAIRMAN. We can not hear the witness.

"Mr. DOUGALL. There was something, as I remember, that might have led one to believe that such a thing was being done. As I remember it, they importuned Heaven to avenge the blood of the prophets and the martyrs on this generation, I think.

"Mr. WORTHINGTON. 'On this generation?'

"Mr. DOUGALL. I think so; that is as near as I can remember. I would not vouch for that being correct; nothing in regard to this nation.

"Mr. TAYLER. This generation?

"Mr. DOUGALL. As I remember it."

Mr. Dougall, it will be remembered, was put upon the stand by Senator Smoot.

The authorities, while refusing to give the obligation, insist that it is not treasonable, but one of Senator Smoot's witnesses, Dougall, by name, brought 2,000 miles to testify, says the obligation is that the initiate is "to avenge the blood of the prophets upon this generation."

Even the discredited witnesses who testified to the obligation find themselves supported by a witness brought here by Senator Smoot, for the distinction between Dougall's transcription of the oath and that of our witnesses is so slight that one might imagine that difference to come from a mere honest failure to recollect accurately.

Apart from Senator Smoot's responsibility as a member of the hierarchy, as one of the apostles, as one indissolubly connected with this conspiracy against the Government, the following facts appear in the testimony as personal to himself.

I have already referred to most of these, but it will take but a moment to recapitulate them.

He voted for the election of Joseph F. Smith as president of the church and has regularly sustained him semiannually ever since.

[Testimony of Reed Smoot (Vol. III, p. 238).]

"The CHAIRMAN. I will modify the question. I will ask the witness whether he intended to sustain Mr. Smith in the commission of this crime?

"Senator SMOOT. I do not sustain any man in the commission of crime.

"The CHAIRMAN. You sustained him in living in polygamous cohabitation?

"Senator SMOOT. I have not said that.

"The CHAIRMAN. Did you not sustain him in October last?

"Senator SMOOT. I sustained him as president of the church.

"The CHAIRMAN. And you have made no protest to him personally?

"Senator SMOOT. It is not my place as an officer of the law nor within my place as a citizen of Provo. That is where I live. It is not my place to make any complaint to the officers of the law against President Joseph F. Smith.

"The CHAIRMAN. Against the head of the church?

"Senator SMOOT. Against Joseph F. Smith, or John Henry Smith; I do not care whether he is the head of the church or a man living there.

"The CHAIRMAN. Then you think that your relation as an apostle does not impose upon you any duty to make complaint against the head of the church for any offense?

"Senator SMOOT. I do not think it would be my duty."

[Testimony of Reed Smoot. (Vol. III, p. 291.)]

"The CHAIRMAN. You speak of the time when you took the endowments. I am not clear whether you stated if you were present at other times.

"Senator SMOOT. I never have been, Mr. Chairman.

"The CHAIRMAN. You have never been present at any time since?

"Senator SMOOT. Never.

"The CHAIRMAN. And you have not officiated in any way in conferring the endowments at any time?

"Senator SMOOT. I never officiated in any way.

"The CHAIRMAN. I think you said to the committee that you were surprised when you heard the president of the church testify as he testified before this committee?

"Senator SMOOT. As to the number of children that he had.

"The CHAIRMAN. Yes. You were surprised?

"Senator SMOOT. I was surprised as to the number of children that he had since the manifesto.

"The CHAIRMAN. Then you were, of course, surprised to learn that he was living in polygamous cohabitation?

"Senator SMOOT. Well, I did not know that he was, and I had no reason to believe that he was.

"The CHAIRMAN. Of course. Then you were surprised when he testified that he had had 11 children since the manifesto?

"Senator SMOOT. Yes, sir.

"The CHAIRMAN. And that surprise still continues, I suppose?

"Senator SMOOT. No, sir; I know it now; or I think I know it, from what he—

"The CHAIRMAN. From what he testified?

"Senator SMOOT. From what he testified to.

"The CHAIRMAN. You regard him, I suppose, a truthful man?

"Senator SMOOT. I do.

"The CHAIRMAN. Did you make known your surprise to him?

"Senator SMOOT. I did not.

"The CHAIRMAN. Neither then nor at any time since, have you?

"Senator SMOOT. Neither then nor at any time since.

* * * * *

"The CHAIRMAN. I wanted to inquire about it. I think you said before the October conference there was a meeting of the officials of the church. Did I understand you correctly—that the president and apostles had a meeting and that there was some discussion about some matters?

"Mr. WORTHINGTON. Prior to the 1904 conference, you mean.

"The CHAIRMAN. Yes; some preliminary meeting of the officials.

"Senator SMOOT. Why, we had meetings right along, Mr. Chairman. I can not call to mind what you have reference to.

"The CHAIRMAN. I had reference to your testimony in chief in which you said there was a meeting of the president and the apostles a few days before the conference.

"Senator SMOOT. At the time Mr. Penrose was nominated?

"The CHAIRMAN. Possibly.

"Senator SMOOT. Yes; I remember it.

"The CHAIRMAN. What I want to inquire about is whether at that time you made known to Mr. Smith and those present your surprise to learn that the president was living in polygamous cohabitation.

"Senator SMOOT. I did not.

"The CHAIRMAN. You did not say anything to him about it? Was anything said about it by anyone?

"Senator SMOOT. Not that I remember.

"The CHAIRMAN. Mr. Penrose was proposed, as I understood you to say, at that meeting—

"Senator SMOOT. By the president of the church.

"The CHAIRMAN. To fill the vacancy in the apostolate?

"Senator SMOOT. Yes.

"The CHAIRMAN. Was Mr. Penrose a polygamist at that time?

"Senator SMOOT. He was a polygamist. He had been married before the manifesto.

"The CHAIRMAN. Yes; I understand.

"Senator SMOOT. But of course, as I said, you know, Senator, at the time I did not know it. But it would have made no difference to me, as I said before.

"The CHAIRMAN. That is as I understand; but at the time you did not know he was a polygamist?

"Senator SMOOT. I knew he had been a polygamist, and I knew that one of his wives died. I never knew anything about his family, and I thought he had had two wives and, one dying, he only had the one; but it proves that he had, before the manifesto, three wives instead of two.

"The CHAIRMAN. Do you know what his general reputation was at that time in that regard?

"Senator SMOOT. I never heard it mentioned.

"The CHAIRMAN. It never came to your knowledge what his reputation was in that particular?

"Senator SMOOT. I never heard it mentioned, Mr. Chairman.

"The CHAIRMAN. I understood you to say you would have voted for him had you known him to be a polygamist.

" Senator SMOOT. Under the circumstances, that he was married before the manifesto.

" The CHAIRMAN. Then the fact, if it were true, that he was living in polygamious cohabitation would have made no difference with your vote?

" Senator SMOOT. Well, I knew nothing as to that, of course.

" The CHAIRMAN. Suppose it to be true that he was, and you had known he was, living in polygamious cohabitation since the manifesto; you would have still supported him?

" Senator SMOOT. In a church position.

" The CHAIRMAN. I beg your pardon.

" Senator SMOOT. In a church position.

" The CHAIRMAN. Well, this was a church position.

" Senator SMOOT. This was a church position.

" The CHAIRMAN. So that would not have deterred you from voting for him?

" Senator SMOOT. I hardly think so.

" The CHAIRMAN. I understood you to say, in your direct examination, I believe, but I want to be clear about it——

" Senator SMOOT. Yes.

" The CHAIRMAN. That there is some investigation being conducted now in regard to Mr. Cowley?

" Senator SMOOT. I have understood so.

" The CHAIRMAN. Did I understand you correctly?

" Senator SMOOT. I say I understand so.

" The CHAIRMAN. Do you know by whom that investigation is being conducted?

" Senator SMOOT. As I understood it, it was to be investigated by President Lyman. I am not, of course, positive of that, but that is as I understand it.

" The CHAIRMAN. That was as you understood it?

" Senator SMOOT. Yes.

" The CHAIRMAN. Do you know whether the investigation has been entered upon?

" Senator SMOOT. Well, Mr. Chairman, I say that, as I understand it, it has.

" The CHAIRMAN. And have you any knowledge about it, as a matter of fact?

" Senator SMOOT. Only from what I have heard people say.

" The CHAIRMAN. Have you made any inquiry to ascertain whether Mr. Cowley is now being investigated and what steps are being taken?

" Senator SMOOT. Not since I left home.

" The CHAIRMAN. I understand you, Senator, to state that you do not teach polygamy?

" Senator SMOOT. I do not.

" The CHAIRMAN. Or advise it? You teach and preach sometimes?

" Senator SMOOT. I do.

" The CHAIRMAN. Do you preach against polygamy?

" Senator SMOOT. I never have in a public gathering of people.

" The CHAIRMAN. Why do you not?

" Senator SMOOT. Well, Mr. Chairman, I do not know why I should.

" The CHAIRMAN. You do not know why you should?

" Senator SMOOT. Or why I should not. It is not a tenet now of the faith and—that is, what I mean to say is, it has been suspended, and I

think it would not be proper for me to bring it up, because it is not preached, for or against.

" The CHAIRMAN. So, while it is literally true that you do not teach or preach polygamy, you have not taught or preached against it?

" Senator SMOOT. No; I have not in a general—

" The CHAIRMAN. Senator, in your teaching and preaching have you at any time denounced polygamious cohabitation?

" Senator SMOOT. I have not.

" The CHAIRMAN. And do I understand you to say you do not reprobate that practice and preach against it publicly?

" Senator SMOOT. I have not.

" The CHAIRMAN. There is some uncertainty about the manifesto, as to its meaning, I believe; that is, whether it prohibits polygamious cohabitation or simply the taking of plural wives?

" Senator SMOOT. Well, the wording of the manifesto prohibits plural marriages.

" The CHAIRMAN. There is some doubt among the authorities as to the point whether it prohibits polygamious cohabitation?

" Senator SMOOT. I can not speak for the authorities. I have heard it spoken of among the people.

" The CHAIRMAN. The people then have doubt about that?

" Senator SMOOT. Some of them, I think.

" The CHAIRMAN. To whom was this so-called revelation made?

" Senator SMOOT. You mean the manifesto?

" The CHAIRMAN. Yes.

" Senator SMOOT. To Wilford Woodruff, as I understand it.

" The CHAIRMAN. Do you know how he interpreted it?

" Senator SMOOT. He interpreted it that it meant unlawful cohabitation as well as polygamious marriages.

" The CHAIRMAN. And at the time he received this revelation he was president of the church?

" Senator SMOOT. He was.

" The CHAIRMAN. Is it your understanding that he abstained from polygamious cohabitation after that?

" Senator SMOOT. It has been so stated by the people there.

" The CHAIRMAN. Well, is that your understanding?

" Senator SMOOT. I understand it so.

" The CHAIRMAN. He was the president of the church at the time this revelation was made to him, I suppose?

" Senator SMOOT. That is as I stated.

" The CHAIRMAN. I will ask you this: Was Mr. Woodruff, at the time this revelation was received, reputed to be a polygamist?

" Senator SMOOT. I think he was.

" The CHAIRMAN. These revelations from God—take, for instance, the manifesto—are they made to the head of the church usually?

" Senator SMOOT. I think the manifesto was an inspiration from the Lord to Wilford Woodruff, the head of the church.

" The CHAIRMAN. Are these revelations made as the result of an invocation or an appeal from the mortal to be advised in relation to a certain course of conduct, or do they come as a surprise?

" Senator SMOOT. I understand that this inspiration as to the manifesto came to President Woodruff by his pleading to the Lord for light. That is what his statement says, I think.

"The CHAIRMAN. Do you know whether the president of the church has appealed to the Lord for another manifesto to interpret that, so that there would be no doubt about it?

"Senator SMOOT. I do not.

"The CHAIRMAN. The Lord might be appealed to, I suppose, to clear that question up, could he not, Senator, from a proper source?

"Senator SMOOT. Oh, I guess anybody could appeal to the Lord.

"The CHAIRMAN. No such appeal has been made that you know of. I think that is all.

"Mr. WORTHINGTON. Mr. Tayler, have you anything further to ask Senator Smoot?

"Mr. TAYLER. Yes; just a question.

"Senator, you said that you declined to reveal what occurred in the endowment proceedings because you had taken an obligation or made a vow or given a promise to God not to do so?

"Senator SMOOT. I did.

"Mr. TAYLER. How do you know that you made it to God?

"Senator SMOOT. Because that is the impression I had at the time, that I made that vow with my heavenly Father.

"Mr. TAYLER. I am not dealing with this in any even suggestively sacrilegious way, Senator, but I want to get the process, mental or moral, by which this thing occurred. You do not understand, do you, that God revealed himself to you at the time that you took this obligation?

"Senator SMOOT. No; I do not.

"Mr. TAYLER. You do not know that God required that obligation, do you?

"Senator SMOOT. I do not.

"Mr. TAYLER. Or that He called for it in any way, either upon you or anybody else?

"Senator SMOOT. He may have by instituting the endowment through His prophet, Joseph Smith, jr.

"Mr. TAYLER. When did God institute these endowments, Senator?

"Senator SMOOT. I understand it was through the prophet, Joseph Smith, jr.

"Mr. TAYLER. But have we not got all the law of the church bound up in the covers of these books?

"Senator SMOOT. As to the doctrine, perhaps so.

"Mr. TAYLER. Then are there other revelations not promulgated?

"Senator SMOOT. Not that I know of, Mr. Tayler.

"Mr. TAYLER. Well, what do you say about this endowment ceremony? Do you understand that that proceeded from God?

"Senator SMOOT. I have heard it so taught.

"Mr. TAYLER. So taught?

"Senator SMOOT. Yes.

"Mr. TAYLER. Has it been approved by the church in conference?

"Senator SMOOT. That I can not say.

"Mr. TAYLER. Do you understand that it ever was?

"Senator SMOOT. Well, they were started in the early days of the church. I do not know, Mr. Tayler.

"Mr. TAYLER. Is it not your understanding, Senator, that the obligation of secrecy, by whatever name you describe it, is a mere voluntary offer made by the person who takes it?

"Senator SMOOT. I did not so understand it. I understood, as I

stated, that it was an obligation that I made to my Heavenly Father to keep the endowment secret.

"Mr. TAYLER. Exactly. Now, what I want to be certain about, Senator, is whether or how the duty was laid upon anybody to make any such obligation to God.

"Senator SMOOT. I think the person takes the obligation upon himself.

"Mr. TAYLER. Yes; exactly. But whether God demanded that or not is quite important.

"Senator SMOOT. He never demanded it of me.

"Mr. TAYLER. He had not demanded it of you. If the endowment ceremony proceeded from God, did it proceed from a direct revelation from Him or because one of his mouthpieces ordered that method?

"Senator SMOOT. I can not say whether it was a direct revelation or not.

"Mr. TAYLER. So that when you say you made that obligation with God it is, after all, only that it was in your mind that you were promising God you would not reveal it?

"Senator SMOOT. It was in my mind and I believed that that was proper to do, and I promised.

"Mr. TAYLER. Why did you believe God would be unwilling that you should reveal that?

"Senator SMOOT. I thought that was an entirely religious ordinance, and I thought that was the mode and the rule and the law of the church and accepted it as such.

"Mr. TAYLER. Did you fear persecution if it should be known?

"Senator SMOOT. Oh, no; not at all.

"Mr. TAYLER. Then what reason would there be for secrecy in a religious vow of worship to Almighty God if there was no fear of persecution?

"Senator SMOOT. It is an ordinance that deals entirely with things spiritual and hereafter.

"Mr. TAYLER. Exactly.

"Senator SMOOT. And I do not know that it would be necessary to reveal it, nor wise, nor prudent.

"Mr. TAYLER. What harm could result from revealing the method of religion in times when people were not persecuted for their beliefs?

"Senator SMOOT. I do not think there would be any special harm, Mr. Tayler, in revealing it, but I think it is an ordinance of the church, as I have stated, that they believe should be kept sacred and secret.

"Mr. TAYLER. So that, having taken the obligation with God, you would not reveal it, would you?

"Senator SMOOT. I do not feel like it would be proper for me to do so.

"Mr. TAYLER. Well, would you reveal it?

"Senator SMOOT. No; I do not think I would.

"Mr. TAYLER. Nothing could induce you to reveal that which, under the obligation you made to God, you said you would not reveal? Is that right?

"Senator SMOOT. Not anything that I could think of now.

"Mr. TAYLER. That is what I meant, of course. That is all.

"The CHAIRMAN. Senator, I wish to know if you agree, as to the meaning of this manifesto, with the president of your church, who

testified in 1891, when the question of church property was involved, at a hearing before Judge C. F. Loofbourov?

"Mr. WORTHINGTON. What page are you reading from, Mr. Chairman?

"The CHAIRMAN. Page 22, Mr. Worthington—Joseph Smith's testimony.

"Q. Do you understand that the manifesto applies to cohabitation of men and women in plural marriage where it had already existed?

"A. I can not say whether it does or not.

"Q. It does not in terms say so, does it?

"A. No; I think, however, the effect of it is so. I don't see how the effect of it can be otherwise."

"Do you agree with the president of the church in that interpretation of it?

"Senator SMOOT. I remember the president of the church making that interpretation of it, but I do not agree that every member of the church could be bound by that until it was presented to them as the manifesto was, and accepted by them. I believe that was his interpretation.

"The CHAIRMAN. Then you do not agree with him in that interpretation?

"Senator SMOOT. I can not tell what his interpretation may be.

"The CHAIRMAN. He has stated what his interpretation is: 'The effect of it is so. I don't see how the effect of it can be otherwise.'

"Senator SMOOT. That was his interpretation.

"The CHAIRMAN. Do you agree with his interpretation?

"Senator SMOOT. No; my interpretation is that it could not be binding upon the people until it was presented the same as the manifesto.

"The CHAIRMAN. Is it a question of being presented by the terms of the manifesto itself?

"Senator SMOOT. The manifesto itself, Mr. Chairman, does not state that it includes polygamous cohabitation.

"The CHAIRMAN. Then you do not agree with Mr. Smith in his interpretation?

"Senator SMOOT. Why, I can not do so.

"The CHAIRMAN. Another thing: Mr. Woodruff—

"Mr. WORTHINGTON. Might I remark there, Mr. Chairman, that Mr. Smith, when he gave that testimony, as I understand, was not president. Mr. Woodruff was then the president.

"The CHAIRMAN. He was not president when he gave it?

"Mr. WORTHINGTON. Not when he gave that testimony. He was a counselor then. He was not president. But Mr. Woodruff, who was president, testified, and his testimony, or what purports to be his testimony, appears on page 21.

"The CHAIRMAN. It does not affect my question. I simply wanted to know of the Senator whether he agreed with that interpretation, and I understand he does not.

"Mr. Woodruff, who received the manifesto, testified as follows:

"Q. Did you intend to confine this declaration [the manifesto] solely to the forming of new relations by entering new marriages?

"A. I don't know that I understand the question.

"Q. Did you intend to confine your declaration and advice to the church solely to the forming of new marriages, without reference to those that were existing—plural marriages?

"A. The intention of the proclamation was to obey the law myself—all the laws of the land—on the subject, and expecting the church would do the same."

"Senator SMOOT. I remember that.

"The CHAIRMAN. Do you agree with that?

"Senator SMOOT. I agree with that as his interpretation.

"The CHAIRMAN. Yes; is it yours?

"Senator SMOOT. Not from the wording of the manifesto.

"The CHAIRMAN. Well, either in the wording or the spirit, is that your interpretation?

"Senator SMOOT. I do not know as to the spirit, I am sure, what he thought.

"The CHAIRMAN. What do you think?

"Senator SMOOT. I can not say. All I can say is this, judging from the rule of the church.

"The CHAIRMAN. Then, independent of that, you have no construction to put upon this manifesto?

"Senator SMOOT. Any further than just what the manifesto says itself.

"The CHAIRMAN. From that you do not think it prohibits polygamous cohabitation, do you?

"Senator SMOOT. It did not in the manifesto.

"The CHAIRMAN. What is that?

"Senator SMOOT. The manifesto did not.

"The CHAIRMAN. And you so regard it to-day?

"Senator SMOOT. Taking the manifesto itself, I regard it that way.

"The CHAIRMAN. That is all."

He has never lifted his voice against polygamy or polygamous living. To no one of his associate apostles nor to the president of the church has he ever said a word in the way of criticism or remonstrance of their violation of law and of their promise to the country; and he declares that he will never do any such thing. He deliberately voted for the election of another polygamist as an apostle as recently as last July. As a trustee and member of the executive committee of Brigham Young University, with a thousand students of both sexes, he permitted a known polygamist to remain for years at its head. Not only that, having reason to believe that the head of the university had taken a new plural wife, he did not undertake to investigate it. He did not criticise the head of the university. He made no inquiry of him, but permitted him for several years after that fact was known generally to continue at the head of that institution; and when, in 1903, this polygamous president resigned, another polygamist was elected to succeed him. This election was with Senator Smoot's approval, and now meets with his approval.

[Testimony of Reed Smoot, Vol. III, p. 197.]

"Mr. WORTHINGTON. Now, there has been a good deal said here about one Benjamin Cluff, jr., and a Mr. Brimball, who succeeded him in a certain position in the Brigham Young Academy at Provo. You were a trustee, I believe, of that institution?

"Senator SMOOT. I was.

"Mr. WORTHINGTON. Are you still?

"Senator SMOOT. I am.

"Mr. WORTHINGTON. How long have you been one of its trustees?

"Senator SMOOT. Now, Mr. Chairman, I can not say positively how long. I have not looked it up.

"Mr. WORTHINGTON. Approximate the time as well as you can.

"Senator SMOOT. My father died in 1895, and I rather think it was shortly after his death, but I am not really sure how soon.

"Mr. WORTHINGTON. That is a church institution, is it?

"Senator SMOOT. It is a church school.

"Mr. WORTHINGTON. And how many persons compose the board of trustees?

"Senator SMOOT. Well, I think there are eleven, but I am not really sure—eleven or twelve.

"Mr. WORTHINGTON. I presume they are all members of your church, of course?

"Senator SMOOT. They are all members of the church.

"Mr. WORTHINGTON. Mr. Cluff held what office in that institution?

"Senator SMOOT. He was president of the faculty.

"Mr. WORTHINGTON. Well, he ceased to be a member and Mr. Brimhall took his place. I wish you would tell us in your own way what you know about that, and what you had to do with Cluff going away and Brimhall taking his place, especially as it may bear upon the allegation here that Cluff took a plural wife after the manifesto.

"Senator SMOOT. In 1900 Benjamin Cluff, with a number of other persons had left Provo for South America on an expedition. I think he was gone a little over two years. He returned in 1902. Shortly after his return, I do not just remember how soon, there was a report circulated—that is, quietly whispered about—that Cluff had married a plural wife while in Mexico. I remember Mr. Jesse Knight, of Provo, one of our executive committee—

"Mr. WORTHINGTON. One of the board of trustees, do you mean?

"Senator SMOOT. Yes; and a member of the executive committee. He asked me if I had heard it. I told him I had not; that he was the first one who had called my attention to it. I told him that I did not believe it was true, for I did not believe it was possible to be done by any one in the church, and that if they did it I thought it was done without the sanction of the church in any way. Jesse Knight told me that he was going to investigate it and see if it were true. On several occasions we talked about it, and I remember that on one occasion he said he had asked Mr. Cluff if it was true, and Mr. Cluff laughingly remarked that there were lots of reports that were not true, and Jesse took it, and I also took it, from the remark, that he evaded the question. It was spoken of. I remember of speaking of it to Mr. Holbrook, another member of the committee, and also to Mr. Dusenberry, and it was discussed more or less. At the next meeting of the trustees the question came up, and was brought up, I think, by Jesse Knight. He made a motion that George Brimhall be the president of the faculty for the coming year. It was at a meeting when the faculty was made up for the year preceding the one that the school was in session. I suppose it would be the latter part of the second semester. It brought up a discussion—

"Mr. WORTHINGTON. Did you say, made up the faculty for the year preceding or succeeding?

"Senator SMOOT. Succeeding.

"Mr. WORTHINGTON. You said preceding.

"Senator SMOOT. I meant succeeding. The question came up then for discussion, and Jesse Knight made the statement there that he understood Cluff had married another wife, and it was talked over. I know President Smith was there, and he said that such a thing could not be, with the sanction of the church, and that if Cluff had done it he had done something that he had no authority to do. We talked the matter over, and they were going to put George Brimhall in as president of the institution for the coming year. George Brimhall was then sick in California, and we expected him to be president of the institution. When he came back from California we found that he had taken a relapse, and that he could not do the work, and he had to go up to Canada. He went to Canada, regained his health there, and the next January, I think—I am not positive as to the date, because as soon as he was well enough I was down here at Washington—he was put in as president of the institution and Cluff was dropped.

"Mr. TAYLER. That was about a year ago?

"Senator SMOOT. I think that was about a year ago, as I remember.

"Mr. WORTHINGTON. Then the delay in putting Brimhall in Cluff's place was owing solely, as I understand you, to Brimhall's condition of health?

"Senator SMOOT. At that time.

"Mr. WORTHINGTON. Just one moment. The young woman to whom it is said Cluff had been married was Florence Reynolds? That has been testified to here.

"Senator SMOOT. Yes, I understood so.

"Mr. WORTHINGTON. Was she a teacher in that school or academy?

"Senator SMOOT. I do not think she ever was a teacher.

"Mr. WORTHINGTON. Something has been said here about her going to Mexico in kindergarten work. Do you know, by reputation or otherwise, whether she went down to Mexico in kindergarten work before Cluff went down on this expedition of which you have spoken?

"Senator SMOOT. I never met the lady in my life, and from my own knowledge, of course, it would be impossible for me to say; but I learned, though, that she used to go to the school at Provo, and from the school she went to Mexico to teach in the kindergarten.

"Mr. WORTHINGTON. And before he went on this expedition?

"Senator SMOOT. Before he went on this expedition.

"Mr. WORTHINGTON. So that whatever took place between them, in the way of forming the marriage relation or any other relation, or whatever took place, took place down there while they were both away?

"Senator SMOOT. I should judge so.

"Mr. WORTHINGTON. Why was it that Mr. Brimhall was elected to succeed Cluff?

"Senator SMOOT. Mr. Brimhall was the most popular man and teacher we ever had at the institution. In other words, Mr. Brimhall has been, and I rather think is to-day, the idol of the young men. He is a very forceful speaker. He is a very convincing man in his speech, and he is an exceedingly bright teacher, and everybody, old and young, likes him. It was thought proper that Mr. Brimhall should be placed as the president of the faculty of that institution, for the good of the institution, and I do not think there was a dissenting

voice in the board of trustees; and while I was not there, I wish to state this, that from my knowledge of Mr. Brimhall, knowing him as I do, knowing how popular he is, and for the good of the institution, as a trustee of that institution I certainly would have voted for Mr. Brimhall to be president of the faculty.

"Mr. WORTHINGTON. Did you know at the time about his exact status in relation to his marital relations that he has testified to here?

"Senator SMOOT. Yes; I knew.

"Mr. WORTHINGTON. Let me see if I recall it correctly. He had had a wife who, in 1883, went to a hospital and has been there ever since; and in 1885 he took a plural wife and has lived with her since, but never with the first wife.

"Senator SMOOT. Well, I believe that is the true statement of his condition. I doubt very much whether many people know that George H. Brimhall is a polygamist. I never heard him speak of it in my life, and I suppose the committee here noticed how very careful George Brimhall was in even having that brought out by the chairman. His wife has been in the asylum, as I know, ever since the opening of the asylum, and of course it is true that he lives with the wife he has now. His first wife has been in that condition for a great many years.

"Mr. WORTHINGTON. Well, you knew about his situation, as to his marital relation, at the time he was discussed as a successor to Cluff?

"Senator SMOOT. Well, I would have done, if it had been called to my attention. There would not be any doubt about that. I never thought about it.

"Mr. WORTHINGTON. It would not have made any difference in your action?

"Senator SMOOT. Not at all.

"Mr. WORTHINGTON. As a matter of fact, I understand you never thought of it at all?

"Senator SMOOT. Not at all. It would not have made a particle of difference in my action if I had."

Senator Smoot declared that he believes that God reveals His will to the head of the church and to individuals in the church; that he himself may at any time receive such revelations from God; that if God should, as He might, command him to do something in conflict with the laws of his country, he would leave this country and go to another country where it would not violate the law; and in reply to a question as to what he would do, if in addition to the command from God he should be commanded to remain in the country, his only answer was that his God was not that kind of a God.

Let us examine this subject of revelation, as applied to Senator Smoot as a legislator, as explained by him and made lucid by its manifest meaning when interpreted by the admitted facts of his church's history and doctrines.

According to his own view he is capable of holding immediate intercourse with God. If not, then he has consciously perjured himself, and I dismiss that suggestion as wholly untenable and unjust to him. If that were the only alternative, then his case would be disposed of for another and simpler reason: the Senate could not, for a moment, tolerate the presence of a man who was known to have perjured himself before one of its committees. So I would have no

implication arise from this reference to that alternative that I am desirous of even suggesting the possibility of such depravity.

We are therefore driven to the conclusion that his views on the subject of revelation as applied to himself personally are all that he has said they are and all that in the essential philosophy of it must be implied.

We are not now speaking either of a mere private citizen or of a mere lay member of a church holding certain beliefs. We are speaking of a Senator of the United States, of an apostle of the Mormon Church, of a man who has testified before us as to the nature of his relation to God, of one who is regularly "sustained" as prophet, seer, and revelator.

We are speaking of a man reared in the environment and atmosphere of the Mormon Church, born of a polygamous mother, and imbued with the spirit of his people, modified though it be by the fact that when he came to years of maturity murmurings against the practice of polygamy had swelled to something of a tumult.

But aside from that we know well that he is a true Mormon, bred in the bone and impregnated with all that it ever stood for in the matter of the fundamental principle of revelation. Now, what does revelation mean to him and what has it to do with him as a legislator?

He may receive, directly receive, commands from the Almighty, from a God of infinite goodness, power, and knowledge.

The edicts of that God, received by an intelligence conscious of the fact of their reception, must in the inevitable nature of things import not only absolute wisdom and power but absolute goodness as well. To deny that is to deny everything. It is to confess one's self a fool or a liar. Now, if God so certainly reveals His will how is it possible for the conscious recipient to deny any of its essential attributes?

If I know that God speaks to me, I know it. If He does speak, I know He speaks absolute wisdom; therefore I know it is right. If He speaks, I know He speaks as one omnipotent; therefore must I do His will or lose fellowship with Him. I deny Him if I do not do His will. If He speaks to me I know He does it with infinite goodness and tenderness, therefore I must be absolutely blameless. I must be absolutely exalted, I must rejoice if I obey Him. If I believed, as Senator Smoot believes, that this God might so speak to me; if in truth and in fact I felt, as Senator Smoot could, that He did speak to me, if I knew this, as Senator Smoot thinks he knows it, and God, thus speaking, gave me His command and His will, I would obey it though the earth rocked and the Government fell.

What revelation has the all-powerful God given to some other man that can weigh for an instant or with a feather's weight against the revelation that I know He gives unto me, unto me?

Now, it is no answer to say that Senator Smoot deceives himself. Whether he deceives himself or actually speaks the truth is one and the same so far as this question is concerned. If he deceives himself—that is, if he is honest, but mistaken—then the worse calamity happens, for he may receive what he thinks is revelation, but is in fact the fruit of his own vagaries or the product of his own caprice. It will not do to make light of his contention, of his asserted belief.

Several hundred thousand sincere men and women have believed and now believe, as they believe in their own existence, that Joseph

Smith, jr., received revelations direct from God, and if anyone ever believed that, we must assume that Senator Smoot believes it.

Now, a Senator of the United States might believe anything else in the world but that and not be ineligible to a seat in the body to which he belongs. He might believe in polygamy; he might believe that murder was commendable; he might deny the propriety as a rule of life of all the ten commandments; he might believe in the sacrifice of human life; he might believe in no God or in a thousand gods; he might be Jew or Gentile, Mohammedan or Buddhist, atheist or pantheist; he might believe that the world began last year and would end next year, but to believe with the kind of conviction that Reed Smoot possesses that God speaks to him or may speak to him is to admit by the inevitable logic of his conviction that there is a superior authority with whom here and now he may converse, and whose command he can no more refuse to obey than he can will himself not to think.

Suppose he were a lawyer and you were considering as Senators the propriety of confirming his nomination as Chief Justice of the Supreme Court of the United States?

As lawyers you would probably not be seriously concerned by the apprehension that God would interfere and advise him how he might wisely decide your case. If your case was good that prospect would doubtless be pleasing. But he might certainly think that God was speaking to him and advising him, and if he were honestly mistaken in that regard, what a monstrous thing would such a decision be. And would we not find established among us a new brand of lawyers whose trained specialty would be a hypnotic suggestiveness to the Chief Justice that God might reveal his will with infinite wisdom and justice?

In its relation to an orderly scheme of government, devised and conducted by men, this quality of revelation, although constituting a mere belief, is in fact a contradiction to the very thought and fact of government.

We must not permit ourselves to be misled by the theory that all men may think as they please. That is true in so far as mere citizenship and right of protection are concerned.

Continuing still to consider this as a mere abstract question of the right of a man to believe that he lives in such a nearness to God that he can speak to Him face to face and hear His actual words, we discover that the situation is none other than would exist if Senator Smoot, when he has taken the oath which every Senator is required to take—that he did it without mental reservation or qualification—should turn around to the Senate and say, not as part of his oath, but as a statement of his condition of mind or the facts of his belief: "I recognize that God is over all; that He speaks to me, and makes known, by manifest physical presence, His will; and, of course, when He makes it known I must obey." The statement of Senator Smoot that he would not obey the commands of God must be said, with due respect to him, to be an absurdity.

The situation is not to be distinguished from one in which, having taken the oath of office, he turned about and said: "I recognize the Czar of Russia to be the highest authority known in the world. If he should speak to me, and I knew that he spoke to me, then would it be my duty to obey." How would he be dealt with? Not by

expulsion for misconduct, but, according to the theory of some of his friends, it would be said that he was merely expressing his belief; that he was not responsible for nor to be punished for his thoughts, and that a man was free to think what he pleased. That would be true if his belief related to anything else than the matter of authority in the Government.

Joseph Smith, through divine revelation, decided as large a variety of questions as did ever the Supreme Court. Why may not Reed Smoot by the same process?

One of the charges made by the protestants is that the hierarchy and the church honor and reward by high office and distinguished preferment those who most persistently and defiantly violate the law of the land. The proof shows that in recent years, and mostly since Reed Smoot became an apostle, this is true. Joseph F. Smith was elected president of the church; Charles W. Penrose was elected an apostle; Brigham H. Roberts was elected one of the seven presidents of seventies; Benjamin Cluff was elected president of Brigham Young University; George Brimhall was elected to succeed him; Apostle Heber J. Grant was put in charge of the European missions; Joseph H. Tanner was made superintendent of all the church Sunday schools, and all of these were regularly sustained at the conferences of the people.

In December, 1891, the president and apostles of the church presented to the President of the United States a petition for amnesty. This petition recited, among other things, that God had given to the head of the church permission to advise the members of the Church of Jesus Christ of Latter-Day Saints that the law commanding polygamy was hereafter suspended.

It prays that "full amnesty may be extended to all who are under disabilities because of the operation of the so-called Edmunds-Tucker law."

It concludes:

"As shepherds of a patient and suffering people we ask amnesty for them and pledge our faith and honor for their future."

Now, the amnesty which was prayed for there was not amnesty for violating the law against polygamy, except in a few sporadic instances. Ninety per cent, perhaps more, of all the prosecutions were for polygamous cohabitation. Ninety per cent of all the people amnestied were people who were under charge or conviction for polygamous cohabitation, and the real suffering of the Mormon people did not grow much, relatively speaking, out of prosecutions for polygamy, but came from the prosecutions for polygamous cohabitation, and it was to obedience to that law against polygamous cohabitation that these shepherds of a patient and suffering people pledged their faith and their honor.

Among those who signed this petition were the following, who are now a part of the hierarchy of the church, regularly sustained by Senator Smoot: Joseph F. Smith, Francis M. Lyman, John Henry Smith, John W. Taylor, Heber J. Grant, and M. W. Merrill, and Apostle Penrose has violated the special amnesty on his own account.

All of these six, the evidence shows, are and always have been since the petition was signed, living openly and defiantly the lives of polygamists, in violation of the solemn pledge thus made. One of them is president of the church; the other five are apostles. All but one of

the other signers were polygamists, and all but two, at the most, continued to live as such.

Complying with the plea President Harrison, on January 4, 1893, issued an amnesty proclamation reciting that polygamous cohabitation was not being practiced to any substantial extent, and especially that the officials of the church had pledged the membership thereof to a faithful obedience to the laws against unlawful cohabitation, and granted amnesty to all who had, since November 1, 1890, abstained from it. On September 25, 1894, President Cleveland issued a similar proclamation.

On October 25, 1893, Congress passed an act providing for the return of church property which had been taken under the Federal authority. In the preamble appears the following:

"Whereas said church has discontinued the practice of polygamy, and no longer encourages or gives countenance in any manner to practices in violation of law, or contrary to good morals of public policy."

It does not appear and, of course, is not the fact, that the church by any formal resolution in specific terms encourages or gives countenance to practices in violation of law or contrary to good morals or public policy, but it does appear and is proved that the president and at least seven of the twelve apostles are openly engaged in those practices.

Now, I have completed in this hurried way my account of what we call the immediate facts in the case. These facts can not be interpreted, nor can Senator Smoot's acts of omission and commission be understood or interpreted, unless we know a little more about the history of this church, the movement of mind and conviction in it, and what is the real state of its convictions.

Senator KNOX. Mr. Tayler, before you pass from what you call the immediate facts, I would like to ask you a question, because I did not get the benefit of the early testimony. Do you claim that Thatcher was disciplined for being a candidate for United States Senator without the consent of the church.

Mr. TAYLER. Absolutely.

Senator KNOX. For that and nothing else?

Mr. TAYLER. Practically so; yes, Mr. Knox.

Senator KNOX. That is what I want to get at.

Mr. TAYLER. It is stated in the testimony that he had differences with his quorum of twelve prior to that time. I think that is true. Moses Thatcher is and was a man of great independence of thought and action. I think he impressed the committee who heard him as a large man, intellectually and morally; but the finding of the court that tried him, the spirit that pervaded the whole transaction, is not merely persuasive, it is absolutely convincing, that he was tried because he insisted that he had a right to be a candidate for the United States Senate without asking his quorum for permission.

The finding of the council that tried him appears in the record. It is not long. I quoted from it quite elaborately in my cross-examination of Senator Smoot. The whole history of the time is full of it, and I think no one can read the account of it and leave it with the slightest doubt in his mind that practically the whole controversy, as a real controversy, hinged upon that particular thing. The findings

and decision of the council will be found on pages 566 to 573 of the first volume of testimony and will be found to be very interesting reading.

It is necessary in order, as I said, that we may understand and interpret these facts, a brief account of which I have just given, that we understand something of the development of this church; and I shall go over it with very few words and only that we may understand each other, and that this argument itself may be coherent.

We are all familiar, I doubt not, with the inception of this church. Joseph Smith, jr., when a very young man, as his account and the account of the church goes, found certain plates in the hill Cumorah, I believe is its name, in New York, written in some unknown tongue or hieroglyphics, and which he undertook to translate. No one knew what the language was, but he was provided in some divine way with the urim and thummin, a pair of spectacles which, being put before the eyes, transposed the characters from unknown and unintelligible hieroglyphics into a tongue which he could interpret; and which he thus translated by this physical thing interposed; and that book thus translated was the Book of Mormon.

He organized his sect, which grew slowly, and the Book of Mormon being insufficient for the purposes of this religion which he thus established, he had revelations. That is to say, God spoke directly to him, and from time to time his revelations came. They are published in the Book of Doctrine and Covenants. They are the basis, with the Book of Mormon, of the religion of Jesus Christ of Latter-Day Saints, believed in by that church as profoundly as the most devout Christian can possibly believe in the Bible.

I have interpreted what I felt, from the testimony, to be the meaning of the Book of Doctrine and Covenants, and I find no better expression of my view of the Mormon view of this than this paragraph which I happened to run across yesterday. It is fully expressive of the thought that is in my mind. I find it in the book called Scientific Aspects of Mormonism, written by Nels L. Nelson, a Mormon of course and professor of English in the Brigham Young University, Provo, Utah. It seems to be a very scholarly book, and this is what he says:

"If the Bible is more perfectly a revelation of God than is the Koran, it is not because God was partial to the Jews; it was doubtless owing to the fact that Israel was fitted for purer life, no less also than that its prophets were purer mediums. But the Bible, in its turn, is less perfectly a revelation of the divine word than are the Book of Mormon and the Doctrine and Covenants; representing, as these later scriptures do, the revelations of God to a dispensation capable of more exacting truth ideals."

I think that fairly interprets the Mormon mind as we have had it disclosed in this case—that the Book of Doctrine and Covenants is a better work than the Bible, not because its origin is any more sacred or of any more certain divinity, but because it was revealed unto "a dispensation capable of more exacting truth ideals."

And while I have this, I have here a definition of revelation which is, it seems to me, remarkably scientific, and will be useful to us in understanding what is meant by it.

Mr. WORTHINGTON. What page?

MR. TAYLER. 210. I do not read it because it is a Mormon book, but because of the accuracy of its expressions:

"But we need definite terms to describe degrees of infallibility in Scripture. When grace gives merely that sensation of truthness which satisfies for conviction, it ought to be called inspiration; but when the divine telepathy brings into consciousness, not only the truth effluence, but the very objects giving off that effluence (i. e., as when the mind has an open vision, or hears the voice of its divine correspondent), it ought to be called revelation."

Revelation became actually, practically, the chief corner stone of the temple of Mormonism. The Book of Mormon was relatively of less importance. By revelation Joseph ruled his people. He received probably one hundred and twenty-five or more revelations, as they are now catalogued in the book of Doctrine and Covenants. They are arranged by Orson Pratt in verses, and these revelations covered a period of probably fifteen years. They cover all subjects that the human mind can contemplate and all interests that a human being could be associated with—business, pleasure, the church, where they shall move to, where they shall build temples, where they shall build a boarding house, who shall contribute and what they shall contribute, how much stock anyone may take, that this man shall go to a certain place and live in a certain way, that that man shall go to another place, as well as all sorts of religious duties laid upon them; but the absolutely secular duties enjoined are mingled with the religious, and with it all is developed the system of church organization—establishment of the priesthood, declaration of their power, injunction upon the people to be obedient, the definition of authority, and all the things that go to make up the great hierarchy that to-day lives and rules the church.

A large number of Mormons drifted, along about 1834 or 1835 (the exact time is unimportant), into Jackson County, Mo. They came, after a time, into conflict with the public sentiment of the State. There were wrongs perpetrated on both sides. Perhaps in the main more wrongs, in the sense of lawless acts, were done to the Mormons than they did to others. They probably resorted to lawless methods, in so far as they did so at all, for the purpose of defending themselves from what they considered lawless attacks upon them; but the point I make about it is that the apprehension which was in the minds of the people who lived in Jackson County, Mo., the thing that they professed to be alarmed about, the thing that sufficed to excite popular indignation against the Mormons, was that the church claimed to receive revelations from Almighty God, and that that community did not know how it might be able to deal with another community so near at hand that had immediate intercourse with God Almighty. That was the foundation of the trouble, to whatever lengths it may have gone afterwards.

They were driven out of Independence, and their property bought at the same time. They went to another part of Missouri, not far away, and were driven from there, and went to a third part and were driven from there; and finally, about 1841, they established themselves at Nauvoo—they named the place Nauvoo—on the left bank of the Mississippi River, in the central part of Illinois. Here they flourished for a few years. They built up what was for that

time a great city of some ten to fifteen thousand souls. They organized their own community. They elected their own mayor. They had their own military organization. They contended that they had sovereign power. They seriously contended that they had the right to coin money, and they did coin money. They commenced the practice of polygamy slightly.

It was not universal, not to such an extent as afterwards prevailed. Joseph Smith, jr., had some correspondence with Henry Clay and John C. Calhoun and other prominent men, desiring retribution for the wrongs that had been perpetrated upon them in Missouri. He did not get satisfaction, and he wrote in quite abusive terms, in letters that are known of all men and can be read by anyone, and finally, in the campaign of either 1840 or 1844, became, on his own motion or that of his people, a candidate for President of the United States. At any rate, he made that proclamation.

It was here that they fell in conflict with the people. There resulted in lawlessness on the part of non-Mormons. Joseph Smith lost his life. He was murdered, as was his brother Hyrum. But the emphasis that I lay on it is this, that it all grew out of the claim that they spoke by authority because Almighty God revealed to him His will; and when you had that state of mind among the Mormon people, with the practices that would necessarily flow from it, we can conceive the state of mind that would exist among those who were round about them.

The result was that they came into serious conflict with the civil authorities and were compelled to leave Nauvoo. In the meantime, by some process, Brigham Young became the head of the church. According to the policy and procedure that we would have thought likely, considering the doctrine and covenants, we would not have thought that possible; but he did succeed to Joseph Smith, and was held and is understood to have possessed all the power and authority that Joseph Smith ever possessed.

They proceeded, slowly and by a laborious and, in some respects, heartrending march, journeying to Salt Lake, where they established themselves about the time of the close of the Mexican war, and there they built their empire.

This same sort of insubordination to any authority except that which emanated directly from God appears all along the way. I am going to make reference to a few public documents. Of course, I am criticising, to the extent that my capacity will permit me to do, the acts of the Mormon officials in relation to the Government, but I do it always in the sense and in the spirit which I have indicated. All is bottomed upon that sense of authority proceeding from revelations, and therefore the more menacing.

In 1857 there was practically rebellion against the United States on the part of the Mormon Church in Utah. The Secretary of War, in his report dated December 5, 1857, says this, and I will read but a few lines—

Mr. WORTHINGTON. What page?

Mr. TAYLER. Page 7.

"The Territory of Utah is peopled almost exclusively by the religious sect known as Mormons. They have substituted for the laws of the land a theocracy having for its head an individual whom they profess to believe a prophet of God.

"This prophet demands obedience, and receives it implicitly from his people, in virtue of what he assures them to be authority derived from revelations received by him from Heaven. Whenever he finds it convenient to exercise any special command these opportune revelations of a higher law come to his aid. From his decrees there is no appeal; against his will there is no resistance. * * *

"From the first hour they fixed themselves in that remote and almost inaccessible region of our territory, from which they are now sending defiance to the sovereign power, their whole plan has been to prepare for a successful secession from the authority of the United States and a permanent establishment of their own."

And so on.

Now, in order to put down this uprising, the Secretary of War says he sent "an active, discreet officer in advance of the army to Utah, for the purpose of purchasing provisions for it, and of assuring the people of the Territory of the peaceful intentions of the Government. This officer found, upon entering the Territory, that these deluded people had already, in advance of his arrival, or of any information, except as to the march of the column, determined to resist their approach, and prevent, if possible, and by force, the entrance of the army into the valley of Salt Lake. Supplies of every sort were refused him."

Then Brigham Young issued this proclamation:

"Citizens of Utah: We are invaded by a hostile force, who are evidently assailing us to accomplish our overthrow and destruction. For the last twenty-five years we have trusted officials of the Government, from constables and justices, to judges, governors, and Presidents, only to be scorned, held in derision, insulted, and betrayed."

And so on. Remember this was a Territory, not a sovereign State.

"The Constitution of our common country guarantees unto us all that we do now, or have ever claimed. If the constitutional rights which pertain unto us as American citizens were extended to Utah, according to the spirit and meaning thereof, and fairly and impartially administered, it is all that we could ask—all that we have ever asked.

* * * * *

"Therefore I, Brigham Young, governor and superintendent of Indian affairs for the Territory of Utah, in the name of the people of the United States in the Territory of Utah, forbid—

"First. All armed forces, of whatever description, from coming into this Territory, under any pretense whatever."

The armed forces, you understand, were the armed forces of the United States.

"Second. That all the forces in said Territory hold themselves in readiness to march at a moment's notice, to repel any and all such invasion.

"Third. Martial law is hereby declared to exist in this Territory from and after the publication of this proclamation; and no person shall be allowed to pass or repass into or through or from this Territory without a permit from the proper officer.

"Given under my hand and seal"—

And so on.

Then follows a notice issued by "Brigham Young, governor and superintendent of Indian affairs, Utah Territory, to the officer commanding the forces now invading Utah Territory," from which I read this:

"By virtue of the authority thus vested in me, I have issued and forwarded you a copy of my proclamation, forbidding the entrance of armed forces into this Territory. This you have disregarded. I now further direct that you retire forthwith from the Territory by the same route you entered. Should you deem this impracticable, and prefer to remain until spring in the vicinity of your present encampment, Black Fork or Green River, you can do so in peace and unmolested on condition that you deposit your arms and ammunition with Lewis Robinson, quartermaster-general of the Territory, and leave in the spring, as soon as the condition of the roads will permit you to march.

I have read only from the official documents to show the state of the mind and the undoubted origin of that state of mind.

Senator OVERMAN. What is the date of that, Mr. Tayler?

Mr. TAYLER. The date was 1857. The exact date of this last letter from Brigham Young to "the officer commanding the forces now invading Utah Territory," is September 29, 1857.

Senator DILLINGHAM. In what official capacity did he purport to issue that?

Mr. TAYLER. As governor and superintendent of Indian affairs, Utah Territory.

Senator OVERMAN. And there was no such position as that under the Government?

Mr. WORTHINGTON. There was then.

Mr. TAYLER. He was governor of Utah.

Senator BAILEY. He was governor of the Territory.

Mr. WORTHINGTON. And also superintendent of Indian affairs.

Senator BEVERIDGE. He was doing this, then, in his civil capacity?

Mr. TAYLER. He did it. That was the only thing I was emphasizing; and he signed it as governor and superintendent of Indian affairs. I do not know whether the Senator heard all I read about it.

Senator BEVERIDGE. No.

Mr. TAYLER. I was directed to the commander in chief of the United States troops who were marching in that direction.

The revelation pertaining to polygamy—I take that up at this point because it then connects with what I am about to refer to in the earlier history of the Territory—was received, so we are informed by the present president of the church, about 1831 or 1832. It purports to have been revealed to Joseph Smith, jr., in 1843, and was not publicly promulgated until 1852 at Salt Lake.

The Mormons claim that they have demonstrated, beyond any sort of controversy, or proper controversy, that Joseph Smith did take plural wives prior to his death. That is disputed by the other arm, the reorganized Church of Jesus Christ of Latter-day Saints, the head of which is a son of Joseph Smith, jr. Whatever the facts may be as to that the testimony seems to be overwhelming to the effect that Joseph Smith, jr., did take plural wives. If we do not believe that we must believe that a large number of intelligent men and women have committed the rankest perjury.

Now, there were others who took plural wives at that time. It was publicly charged that they took plural wives. I have read in the evidence here two or three times, the declaration made by officials of the church that polygamy, in certain forms, was not practiced or permitted.

And there, if I may be permitted to digress a moment, I would say this, that a peculiar psychological development of the mind has occurred among Mormons between whom and the constituted authority for all these years, and during the time that tradition informs those who are younger, a curious and constant antagonism has existed. There has been constant question as to whether polygamy is practiced, how much polygamy is practiced, whether polygamy is dead, whether any plural marriage has occurred. A curious mental condition has arisen that is exemplified by the answers made by several of the witnesses to inquiries as to the meaning of the denials officially published by officers of the church on the subject of the practice of polygamy. Those declarations that convey to the common mind, to the ordinary intelligence, unequivocal denials, are now explained by the fine sight of acute intellects discovering how it is possible to so construe the verbal terms of a denial as to permit the inference to be drawn that the persons who drafted the denials did not intend to deny that polygamy was practiced or that a polygamous revelation had been received.

The official statements are as follows:

" NOTICE.

"As we have been lately credibly informed that an elder of the Church of Jesus Christ of Latter-day Saints by the name of Hiram Brown has been preaching polygamy and other false and corrupt doctrines in the county of Lapeer, State of Michigan, this is to notify him and the church in general that he has been cut off from the church for his iniquity; and he is further notified to appear at the special conference on the 6th of April next to make answer to these charges."

[Times and Seasons, Volume V, page 423.]

NAUVOO, March 15, 1844.

To the Brethren of the Church of Jesus Christ of Latter-Day Saints living on China Creek, in Hancock County, greeting:

Whereas Brother Richard Hewitt has called on me to-day to know my views concerning some doctrines that are preached in your place, and stated to me that some of your elders say that a man having a certain priesthood may have as many wives as he pleases, and that doctrine is taught here, I say unto you that that man teaches false doctrine, for there is no such doctrine taught here; neither is there any such thing practiced here. And any man that is found teaching privately or publicly any such doctrine is culpable and will stand a chance to be brought before the high council and lose his license and membership also; therefore he had better beware of what he is about.

HYRUM SMITH.

[Times and Seasons, Volume V, page 474.]

These two statements, issued after the plural marriage revelation, are declared by President Joseph F. Smith, by Doctor Talmage, and by other witnesses as not intended to deny that plural marriage was or might be practiced.

I can think of nothing that so well illustrates the condition of the educated Mormon mind and its developed capacity for intellectual chicanery when it comes to dealing with these questions that have so agitated non-Mormons.

In 1852 this revelation was promulgated. Whatever may have been the state of the law until 1862, there was no statute law operative in Utah on the subject; but in 1862 was passed a law to this effect:

Section 5352. "Every person having a husband or wife living who marries another, whether married or single, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of bigamy, and shall be punished by a fine of not more than five hundred dollars and by imprisonment for a term of not more than five years."

That was the first law. Shortly after the passage of that law—about the time of its passage—Governor Harding was appointed by the President of the United States governor of the Territory of Utah. He had not been there very long until he discovered the prevalence of polygamy, and delivered a message to the legislative body of the Territory in which he made very specific reference to that subject, and, indeed, very intelligently and conservatively and appropriately discussed the subject.

"It would be disingenuous"—

Said he—

"If I were not to advert to a question which, although seemingly it has nothing to do in the premises, yet is one of vast importance to you as a people, and which can not be ignored. I mean that institution which is not only commended but encouraged by you, and which, to say the least of it, is an anomaly throughout Christendom. I mean polygamy or, if you prefer the term, plurality of wives. In approaching this delicate subject, I desire to do so in no unkind or offensive spirit; yet the institution founded upon no written statute of your Territory, but upon custom alone, exists." * * *

Then he goes on to recite the act of Congress which I have just read, then to discuss the question of the liberty of conscience, and so on, and urge that they obey the law.

The legislature refused to print that message, and it was printed subsequently by order of Congress. Harding was, of course, persona non grata to the people of Utah Territory. The subject came up in the Senate, and it was ordered to be printed, on the motion of Senator Wade.

Now, this matter went on. I want to develop here the idea, demonstrate this proposition, that through all of this testimony we have heard the contention made that it was all right from their point of view to take plural wives, because the law which forbade it was unconstitutional; that they continued to take plural wives up to 1890, although in less numbers than before, because the Government was severely prosecuting, when they abandoned it on account of the manifesto, which forbade or suspended the rule of law commanding polygamy; but the assertion has been made all along that it was not

until 1890, until about the time of this manifesto, that there was really any duty upon the Mormon people to believe that the law was constitutional.

I want to emphasize the fact that still it was only the policeman's club that brought this thing to such an end as it did come to, that the declaration of the Supreme Court operated not at all upon their judgments or their conscience. They paid no attention whatever to that as a rule to them, for the thing was settled in 1878 beyond question, beyond controversy, so explicitly and certainly that the feeblest intellect could comprehend it.

I want to refer to the case of *Reynolds v. United States*, found in 98 Supreme Court Reports, page 145, decided at the October term, 1878. This is what is said in the syllabus:

"Section 5352 is in all respects constitutional and valid."

That is the law that I just read.

"The scope and meaning of the first article of the amendments to the Constitution discussed.

"A party's religious belief can not be accepted as a justification for his committing an overt act, made criminal by the law of the land."

George Reynolds was a polygamist. He was a witness here. He was prosecuted under that section. The case was carried to the Supreme Court of the United States, most elaborately argued before the court, and most elaborately discussed in the opinion, and that opinion was unanimously concurred in by the membership of the Supreme Court, save in an unimportant matter of practice upon which Mr. Justice Field dissented.

Chief Justice Waite laid down the law there, which never was qualified, and, so far as I know, no one ever sought to qualify it or deemed it possible of qualification by any court. I read from the opinion of Chief Justice Waite, on page 164:

"Polygamy has always been odious among the northern and western nations of Europe, and, until, the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people. At common law the second marriage was always void, and from the earliest history of England polygamy has been treated as an offense against society."

And so on.

He then refers to the statute of 1, James I, and then to the discussion that occurred in the convention of Virginia on the subject of religious liberty, and proceeds:

"From that day to this we think it may safely be said there never has been a time in any State of the Union when polygamy has not been an offense against society, cognizable by the civil courts, and punishable with more or less severity. In the face of all this evidence, it is impossible to believe that the constitutional guaranty of religious freedom was intended to prohibit legislation in respect to this most important feature of social life. Marriage, while from its very nature a sacred obligation, is nevertheless, in most civilized nations, a civil contract, and usually regulated by law. Upon it society may be said to be built, and out of its fruits spring social relations and social obligations and duties, with which government is necessarily required to deal. In fact, according as monogamous or polygamous marriages are allowed, do we find the principles on which the government of the people to a greater or less extent rest.

"Professor Lieber says: 'Polygamy leads to the patriarchal principle, which, when applied to large communities, fetters the people in stationary despotism, while that principle can not long exist in connection with monogamy.'"

* * * * *

"So here, as a law of the organization of society under the exclusive dominion of the United States, it is provided that plural marriages shall not be allowed.

One or two witnesses undertook to distinguish between bigamy and polygamy, as a matter of law. The Supreme Court, you notice, disposes of that in a very few words.

"Can a man excuse his practices to the contrary, because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and, in effect, to permit every citizen to become a law unto himself. Government could exist only in name under such circumstances."

Now there the last word was said—not that the Supreme Court never said substantially the same thing, incidentally, in a later case. But the declaration was and is a finality. There were many cases that went up; but there the law was laid down in unmistakable terms, and we are asked to believe, that after that declaration by the Supreme Court of the United States, they had a right to believe that that law, there declared to be constitutional, was unconstitutional; and nothing is plainer than that from 1878 down to 1890 the leaders and people of the Mormon Church believed in the righteousness of polygamy, in the practice of polygamy, in the taking of plural wives. Why? We hark back to the everlasting basic fact: because God said it was right. "The law might say no. The highest judicial tribunals known to the law might say no. It might, as in the Reynolds case, in specific terms declare that law constitutional. No; it is not constitutional. We say it is not constitutional. Why? Because God says so."

They continued in that belief, in that practice, until when? Until God said quit? Until God said "take no more polygamous wives?" No, no; not that. Until God said: "I suspend the command to take polygamous wives."

We have been told here by Senator Smoot that the revelation respecting plural marriage was not a command. Well, it may not have been a command upon everybody, but what was suspended? We are told that the original revelation on plural marriage was permissive, that it permitted plural marriage. Then if it permitted plural marriage, the manifesto did not suspend the permissiveness of it.

In the plea for amnesty we find the declaration, signed by every prominent man in the Mormon Church, including Wilford Woodruff, and these are the words:

"In September, 1890, the present head of the church, in anguish and prayer, cried to God for help for his flock, and received permission to advise the members of the Church of Jesus Christ of Latter-Day Saints that the law commanding polygamy was henceforth suspended."

What has become of the law permitting polygamy? There must have been two laws. We are told by the highest ecclesiastical authorities in the church that Joseph Smith was commanded to take plural wives. Whether anybody else was commanded or not we have not been informed, but many others did take them, not because

they were commanded, we are told, but because the law permitted it to be done. So that this "command" part of the revelation is suspended. Whether there is anything else that is not covered by it I do not know. I leave that for the sophists of the church.

In 1882 was passed the Edmunds Act, which made polygamy unlawful and more accurately defined the offense. There were many persons who had gone into polygamy who, curiously enough, had not violated any law, if we interpret the statute of 1862 as one must interpret a penal law, for many men in the Mormon Church married two wives at once. By one ceremony a man took two wives, so that he could not be guilty of the crime of taking one wife while he had another wife living and undivorced. The Edmunds Act got rid of the technical difficulty in the way, but, on account of the vast infirmity in any law, in its operation, in the way of proving the actual crime of bigamy or polygamy, the offense of unlawful cohabitation was created and means taken to prosecute it.

That law turned out to be somewhat defective, and in 1887 the Edmunds-Tucker Act, so-called, was passed, which permitted juries to be obtained who would not be so prejudiced in favor of the Mormons as to make it practically impossible, or very difficult, to bring about conviction.

And so these prosecutions went on under those acts until the manifesto came.

Now, in order to show how additional information was supplied to these people, who only wanted to obey the law, who believe in law, constitutional law—with their own judgments to answer the question: what is constitutional?—but who only wanted information as to how they might be obedient to the law, let us see what happened. They did not have to wait very long. The Edmunds Act quickly came to the Supreme Court of the United States, and Mr. Justice Matthews, in discussing the case, which did not raise the question of the propriety of antipolygamous legislation at all, but only interpreted this act in respect to the method of its enforcement, and the definition of a polygamist, takes occasion to make use of these—not to us, but to them, they ought to have been—most significant and interesting and prophetic words. I read from the case of *Murphy v. Ramsey*, 114 U. S., page 45:

"For certainly no legislation can be supposed more wholesome and necessary in the founding of a free self-governing Commonwealth, fit to take rank as one of the coordinate States of the Union, than that which seeks to establish it on the basis of the idea of the family, as consisting in springing from the union for life of one man and one woman in the holy estate of matrimony, the sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement. And to this end no means are more directly and immediately suitable than those provided by this act, which endeavors to withdraw all political influence from those who are practically hostile to its attainment." What uninformed intelligence can be conceived that those pregnant sentences did not enlighten?

Still the marriages went on. Joseph F. Smith married a plural wife in 1884, and many, if not most, of the living polygamist apostles to-day did so, after the decision of the Reynolds case.

Congress passed an act in 1887 which had for its purpose (and which accomplished that purpose) of taking possession of the property of the church upon the theory that the church was an unpatriotic organization engaged in an unlawful enterprise, a conspiracy against government, and that its property ought to be escheated. It was taken possession of and put into the hands of receivers. That case went to the Supreme Court, and in May, 1890, shortly before the revelation came to Wilford Woodruff that the command to take plural wives should be henceforth suspended, the Supreme Court decided, in unmistakable terms, that the taking of this property was right. The property was thus, under the authority of the act and the decision of the Supreme Court, to be taken over and disposed of as escheated property can ordinarily be disposed of. That case was decided on the 19th of May, 1890. A very elaborate opinion was rendered by Justice Bradley, the title of the case being *Mormon Church v. The United States*. I do not need to make any more than this reference to the case—

Senator McCOMAS. What is the volume?

Mr. TAYLER. Volume 136, page 1.

"The pretense of religious belief," says the proposition in the syllabus, "can not deprive Congress of the power to prohibit polygamy and all other open offenses against the enlightened sentiment of mankind."

That was a mere incidental statement in the opinion which one might expect to find in every case involving the question.

Prior to this the Supreme Court had also passed upon what was called the Idaho test oath case in the case of *Davis v. Beason*, found in 133 U. S., page 333, and the decision in that case is pertinent to some of the questions that spring up in our minds in this case.

The Supreme Court of the United States, in *Davis v. Beason*, held that "a statute declaring that no person who is a bigamist or polygamist, or who teaches, advises, counsels, or encourages any person or persons to become bigamists or polygamists, or to commit any other crime defined by law, or to enter into what is known as plural or celestial marriage, or who is a member of any order, organization, or association which teaches, advises, counsels, or encourages its members or devotees, or any other persons, to commit the crime of bigamy or polygamy, or any other crime defined by law, either as a rite or ceremony of such order, organization, or association, or otherwise, is permitted to vote at any election or to hold any position or office of honor, trust, or profit within this Territory, is an exercise of the legislative power conferred upon Territories by the Revised Statutes and is not open to any constitutional or legal objection."

The philosophy of *Davis v. Beason* applied to the proved facts and status respecting Senator Smoot dispose forever, in my opinion, of the question as to what ought to be done with him. I am not now saying it is applicable upon the claim that the Mormon Church teaches polygamy to-day, or calls upon people to practice polygamy to-day, but to the general defiance of law that has been shown in respect to polygamous cohabitation, and because it is an "organization which teaches, advises, counsels, and encourages its members" to commit the crime of unlawful cohabitation, which is just as much an offense against the law as murder; and to defy the law respecting

that involves as much the principle of defiance of law as law as if it was a law against murder.

So here, not merely those who teach or encourage or countenance violation of law, but any man who is a member of any order, organization, or association which teaches, advises, counsels, or encourages its members or devotees to commit the crime of bigamy or polygamy, or any other crime defined by law, shall be denied the right to vote or to hold any office.

And there was a petition to have the same thing apply to Utah.

I think I have disclosed to the mind of the committee what the Mormon mind was relating to this subject, and all subjects wherein their revelations conflicted with the law of the land. How were they treated? Did they obey the law because either they evolved from their own consciousness a respect for law or because the Almighty, by any revelation or otherwise, put into their hearts the spirit of respect for law as law? Or for some other reason did they obey the law?

What becomes of the Ethiopian's skin and the leopard's spots? Have these people changed their quality because the policeman's club hovered over them? Are they not the same in spirit and in fact? Is this Senator from the State of Utah to be differentiated from his people?

I am not attacking. I must not attack—the philosophy of my argument does not permit me to attack—the manhood of these men. From one point of view there are those who would applaud it because they stand by that which they believe to be true; but governments are instituted, unfortunately for the world in this early period of its development toward perfection, by men. Man alone makes these laws, so far as we know, except in the Mormon Church, and by man alone they must be administered; and he who applies any other rule or seeks any other power, save as he understands the Christian may get inspiration by prayer, has no part or place, and can have none, in that kind of government. His government is theocracy. It may be better than ours. It may have more hope for this country in it than ours; but it has no more part or parcel with it than the actual Kingdom of God, if it exists anywhere on earth.

But, gentlemen, I weary you, and must hurry along.

I have said so much about revelation that I think I need say no more. Frequent references to it are found in the testimony, and the general facts of it are thoroughly well known. We understand what is the origin of the priesthood: that these priests are the successors of Christ, that they are endowed with all the powers with which the priest ever was endowed since the dawn of time; that they have authority, and the spirit of obedience is taught. It is that which flows from revelation, and by their constant teaching.

I want to read just one word from the book of Doctor Talmage on this subject of obedience, that illustrates it better than if I read the entire volume. I read from page 241 of the record in this case, volume 1. He says:

“This does not imply the infallibility of man, but it does imply the promise that no man or council of men who stand at the head of the church shall have power to lead the Saints astray. With this assurance, then, the people of God in every dispensation have been justified in rendering absolute yet intelligent obedience in the direction of the holy prophets. It is an undeniable fact in the history of

the Saints, that obedience to whatever has come, either by written document or verbally, from the presidency of the church, has been attended with good results; on the other hand, whosoever has opposed such council, without repentance, has been followed with evidence of condemnation."

There is hardly a line in sermon or story or exposition of Mormon doctrine that does not breathe the spirit of obedience as explicitly as we find it in that quotation from Doctor Talmage.

So in the report of Governor Thomas, of Utah, who, not having had an opportunity to testify, I will now put upon the stand for a quotation on that subject. I will read just a word from the report of the governor of Utah for 1889, page 25:

"While the Mormon masses are too sincere to voluntarily make false pretenses, they could be induced to accept and adopt any form of words, however contradictory, if advised to do so by their authorities, for obedience to the priesthood and to obey counsel is diligently inculcated as a first duty, and should they be told to sign a declaration that they were Mohammedans and that the priesthood understood the matter, and it was for the advancement of the cause and the glory of God, they would probably do it.

"In other communities every man feels a consciousness of personal equality and independence and personal responsibility, and a strong love of country as against everything else. In Utah, among the Mormons, this is not the case. That instinctive love of country, which is the distinguishing characteristic of the American people, does not find a responsive sentiment in Utah. The orthodox Mormon, in every political and business act puts the church first, the country afterwards. It can not be otherwise, for the priesthood claim all government but its own to be illegal, and claim a 'separate political destiny and ultimate temporal dominion, and by divine right.'"

Mr. VAN COTT. What is the date of that, Mr. Tayler?

Mr. TAYLER. 1889.

I have already gone over, as fully as I have time, the system of organization, their interference in politics, their church courts, the ordinary temporal affairs in which they interest themselves, the mercantile institutions, the church religion classes, and the significance of all those things. They are typical. They mean certain things. It is not that the church is to be criticised or judged merely because it has a court instituted: but all I have been saying is intended to disclose how it happens they have that court, how it happens they may interest themselves in politics, how it happens they may interest themselves in the electric light plant that Brigham City may have, and how, when they shade off from it, how, when they may proclaim another purpose, the original thing is there. That from which it all sprang, the life-giving blood, the source of power, that which occasioned it all, still remains—the authority of the priesthood, the capacity to receive revelation, the dominion of the church everywhere and in respect of all things save where the strong arm of government is laid upon it and compels it to desist.

So we gather the state of the Mormon mind. From the history of the church, from the concrete proof that is presented, we discover that it is the same church, the same people, moved by the same controlling and impelling causes, qualified, it is true, by the powerful influence of modern civilization and the strong arm of government and the

sense of mankind operating upon them, improved, but with the spirit still there, that will be there so long as the head of the church is the mouthpiece of God. So long as the apostles are mouthpieces of God, prophets, seers, and revelators, so long will the church in its essence, and everywhere and always, whenever it can, be superior to the law of the land.

Gentlemen, I have come to the last word I shall have to say in this case. My part of this work is done. To me it has been most interesting. To you it must be most important. Judgment must come from the highest legislative body of what we have a right to say is the freest and greatest representative Government on earth. Your work is to make laws, and, being such, you must set an example of respect for law, and especially for that kind of law which, while formulated in statutes, is bottomed on a fundamental principle of society and demanded by the all but universal sense of civilized mankind.

If it be said, and truthfully said, of a member of the highest legislative body of the land that such a law so originating in the decent and sober sense of mankind, except of his own associates, is not worth obeying, or that it need not be obeyed, then is your legislative body but a mere sham and pretense which, while claiming and exercising the high prerogative of legislation, would defy its own laws. If our contention here be not sound, then it could not be said to be wrong if ninety Reed Smoots sat in this great body and each in his own way testified that he was here to enact laws, but not to respect or obey them; that it was neither necessary nor reasonable that the legislative power should be exercised by those who were themselves respectful of their own enactments.

How can 80,000,000 citizens be expected to obey the law if they do not respect either the law or the makers of law?

How can government exist if the law be not supreme? How can the law of the land be supreme if a God, known to the subjects of that law to be of infinite goodness, power, and wisdom, directly speaks to that subject of the law? Whatever the respect we accord to one who sustains to the Almighty such a relation, how can such a one participate in a man-made government?

Among those who believe in present revelations from God but one government can by right exist—a government by God; a theocracy.

A grave question is yours to answer. Reed Smoot himself is but a trivial incident in the mighty problem. It is the problem of government; the institutional question whether law or caprice shall govern people who know no ruler but the law, and no safe rule but respect for law.

A Senator from the State of Utah is a Senator of the United States. He legislates for 80,000,000 people, who hold as their most cherished possession such a respect for law because it is law as Reed Smoot, unhappily for him, has never felt nor understood from the moment of his first conscious thought down to the present hour.

The CHAIRMAN. Gentlemen, do you care to proceed to-night?

Mr. WORTHINGTON. Mr. Van Cott is to proceed first for us, Mr. Chairman, and he does not wish to begin at this late hour.

The CHAIRMAN. We will suit your pleasure entirely. The committee will stand adjourned until to-morrow morning at 10 o'clock.

The committee (at 4 o'clock and 30 minutes p. m.) adjourned until Friday, January 27, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 27, 1905.*

The committee met at 10 o'clock a. m.

Present: Senators Burrows (chairman), McComas, Foraker, Beveridge, Dillingham, Hopkins, Knox, Pettus, Dubois, Bailey, and Overman: also Senator Smoot: also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

ARGUMENT OF ROBERT W. TAYLER—Resumed.

Senator KNOX. Mr. Tayler, taking advantage of the request that you made of the committee to ask you such questions as would tend to clarify your position and to clear it up in your own minds, I desire to put three questions to you, which you may answer now or at any other time during the hearing, as you see fit. I do this for the purpose of getting an accurate conception of the views that you set forth in your argument yesterday.

First. Do you concede that your argument, intended to establish Senator Smoot's disqualification, applies with equal force to all members of the Mormon Church who entertain the beliefs confessed by Senator Smoot before this committee?

Second. Do you concede that your argument for disqualification, so far as it is based upon Senator Smoot's belief in a duty to obey Divine revelation, applies with equal force to all who believe in the duty to obey the Divine will, however ascertained?

Third. Would Senator Smoot be disqualified, in your opinion, by reason of being a Mormon, if Mormonism had never been tainted with polygamy?

Mr. TAYLER. I would rather answer the questions now. To the first question I answer, no; emphatically, no.

"Do you concede that your argument, intended to establish Senator Smoot's disqualification, applies with equal force to all members of the Mormon Church who entertain the beliefs Senator Smoot has confessed?

Most emphatically, no. The chief charge against Senator Smoot is that he encourages, countenances, and connives at the defiant violation of law. He is an integral part of a hierarchy: he is an integral part of a quorum of twelve, who constitute the backbone of the church. It is all there is to the church. The president is its creature. It may depose him; it may destroy him; it may annihilate him any day it pleases. We have the high authority of President Joseph F. Smith for that. He says they would not do it, but they could do it. They themselves determine who shall fill any vacancy that may occur in their number. Of course there is a formal nomination to the people, but the people themselves universally sustain that nomination. So the quorum of twelve, of which Senator Smoot is one, is the church in so far as authority—real basic authority—is concerned.

Now, then, I say that he, as one of that quorum of twelve apostles, encourages, connives at, and countenances defiance of law, and he can not separate himself from that fact, and in that respect, which is radical, which is to the last degree important, he is, of course, to be distinguished from every other member of the Mormon Church.

Now I will answer that question and the remainder of that which is involved in that question still, and the next question, by saying Yes—that is to say, any man who believes himself to be in personal relation to Almighty God, so that he is capable of receiving through a conscious fellowship and intercourse face to face with God, either by hearing his voice or by seeing his presence—the will and wish and command of a God of infinite goodness, wisdom, and power is constitutionally incapable of being a part of a man-made government.

He may be a citizen, because unless he commits some overt act he is doing no wrong, for his thoughts are his own. His belief he is entitled to possess; but when he comes to constituting himself a part of the fabric of the Government, which is based upon laws that are made by men and men alone, he is absolutely incapable of being a natural and proper part of it.

I do not know but that the spirit of the third question is answered, met by what I have already said.

“Would Senator Smoot be disqualified, in your opinion, by reason of being a Mormon, if Mormonism had never been tainted with polygamy?”

I will say this as to that: Practically nobody would ever have dreamed of disqualifying him, because men's beliefs become important to us, their lives as based upon those beliefs become important to us, only when they exhibit facts that are important, and polygamy, being essentially, in principle, being abstractly but a mere incident of the Mormon Church and its religion, is yet concretely so offensive to the sense of mankind, so at war with civilization, it so undermines the corner stone upon which our society is built, and we believe, as our laws have declared, as our Supreme Court has solemnly announced, that the attention of the public has been directed to it on account of its offensiveness and to the church on account of its adherence to that policy and the practice of it.

Now, if polygamy had not been associated with Mormonism, I say, as a practical circumstance, we never probably would have heard of this. But otherwise I would answer the question just as I did the second question: That, assuming the possession by Senator Smoot of the power of personal intercourse with Almighty God, with the certainty upon his part that that will may be revealed to him, not as an inspiration, not as a general and elusive and pervasive effulgence of truth, whereby he apprehends, as it were, by some inner mental operation that the truth is with him, but that by coming face to face with God and receiving his word, hearing his voice, he knows what our Mormon friends would describe, that it is a thing that comes “thus saith the Lord,” with the same kind of certainty that you now have of my addressing you, then I do not care whether a man is a Mormon or what he is; he may be a good citizen, but he should have no part in legislation.

Senator KNOX. Mr. Tayler, I am very much obliged to you. It makes your position much more clear to me.

Mr. TAYLER. I am glad, of course, to answer the questions, as I would have been yesterday at any time.

ARGUMENT OF WALDEMAR VAN COTT.

Mr. VAN COTT. Mr. Chairmen and gentlemen of the committee, the part of the argument that is assigned to me is the alleged interference of the Mormon Church in the political affairs of Idaho and Utah, and the legal consequence, assuming there is any such interference.

First, as to the alleged interference in political affairs in Idaho and Utah: A great part of the evidence is devoted to this subject, though but little of the opposing argument has been directed to that point. To appreciate this matter intelligently it is necessary to call attention to some ancient history in connection with the Mormon people, for the purpose of observing their natural disposition in first selecting their political party, and later the natural shifting that might be expected when the political issues of the two great parties were fully understood. The Mormon people, justly or unjustly, were in antagonism with the people of Missouri, Illinois, and other places. Finally, they went to Utah, and there was continued the antagonism for many years. All this naturally solidified the Mormon people on one side, with the Gentiles arrayed on the other. National politics were not seriously thought of, as they could not find any legitimate footing. It was Gentiles against Mormons. Gentiles, as the Liberal party, carried on a relentless war to compel the abandonment of polygamy. All Gentiles naturally would stand together on this issue. Naturally the Mormon people in self-defense, would take the opposing side. All Mormons stood together, as the People's Party.

This kind of a fight, in the nature of things, would be very bitter. On one side was the cry of religious persecution; on the other that it was not religion but crime. It was a struggle in which every Gentile was against every Mormon, wherever they might be. Therefore national politics were not considered. They were buried until the polygamy issue was settled. It can then be readily understood that while this fight was being waged, from some time about 1847 to 1891, boys would become men, and reach mature years, never knowing anything about national politics except theoretically. The issues between the great parties were more academic than practical. Boys 10 years of age in the East and West, where there were political parties, were far more imbued with political convictions, political enthusiasm, and practical knowledge of politics than were the great bulk of Mormon men and women in Utah.

O. W. Powers, a witness for protestants, testifies to their political inexperience (vol. 1, pp. 896-897).

The manifesto prohibiting polygamy was issued in 1890. If the Gentiles believed this was in good faith there was no reason to keep up the polygamy fight any longer. Accordingly, in 1891 and 1892, the People's Party and the Liberal party dissolved, and the Repub-

lican and Democratic parties were organized. The population of Utah in 1891 was about 75 or 80 per cent Mormon. Which party would the majority of the Mormons naturally join? The most of them first joined the Democratic party, and there was a natural reason for so doing, to wit: The National Government for many years had been Republican; it was the Republican party that passed the act of 1862, punishing polygamy; the Edmunds Act of 1882, providing further punishment for polygamy, and also punishing other offenses; the Edmunds-Tucker Act of 1887, which was still more drastic in its provisions; the officers and judges who executed these laws were principally Republican. Therefore it was reasonable that the sympathy of the Mormon people should naturally be with the Democratic party, the party which was out of power and which had neither passed these laws nor enforced them, just as the Mormon people naturally would have been Republicans if the facts had been reversed. At once, on the dissolution of the People's Party and Liberal party, there commenced an active campaign for political adherents. Speakers went through the State explaining the principles of the two great political parties. The national platforms were circulated and explained, and for the first time the great bulk of the Mormon people had before them practical politics.

As bearing on the question of whether the Mormon people might not naturally change in convictions in considerable numbers to Republicanism, it must be remembered that mining is the second occupation of importance in Utah, agriculture being first; it was of great moment to Utah to maintain a tariff on lead. The people generally believed this brought greater prosperity to the mining industry. As the mining industry prospered so did agriculture, as then there was a greater demand and larger prices for agricultural products. Again, the sheep industry was of great importance to Utah. The people so engaged thought they obtained higher prices for their wool with a tariff than without. Again, the sugar industry was started in Utah. The conditions were favorable from every standpoint, particularly including the bounty on sugar. Glen Miller testifies to this effect, vol. 3, pages 149 et seq. The majority of the people in Utah gradually came to the conclusion, from campaign to campaign, that they were more benefited by protection and the other principles of the Republican party than otherwise, and gradually many Mormon people, and Gentiles too, changed to Republicanism, as might be naturally expected under the circumstances. I, as a Democrat, must admit that they had good reason to so believe. In the campaign of 1896 the silver issue carried Utah to the Democratic column, just as it did many other States, but on the whole Utah has shown the same change in politics—generally, as the gradual conversion to Republicanism, and exceptionally, as the silver issue of 1896—as has many other States in the Union. The change has affected Gentiles as well as Mormons: in fact, and as might be expected, Gentiles have fluctuated more than Mormons in political constancy. Utah is now a Republican State, and its conversion is no more remarkable than that of many other States; in fact, not so remarkable as that of Missouri. Then, when it is charged that the Mormon Church first made its people Democratic and then Republican, it is apparent from the political history of other States and from the conditions existing in Utah that this charge has no foundation in fact, but the results

are what might naturally be expected; in fact, are the same results that obtained in many other States where practically similar conditions obtained.

With these conditions in mind, let us take up the main issue. In the main protest, volume 1, page 25 of the record, in speaking of Senator Smoot, it is said "We accuse him of no offense cognizable by law. * * *"

Utah has an elaborate criminal code, as may be seen by consulting the Revised Statutes of Utah, 1898, section 4051, et seq. In this volume will be found provisions dealing with every offense known to the people generally of the United States; then there are the statutes of the United States dealing with a large number of offenses peculiar to its own sovereignty; yet, when all are searched, and by eyes most unfavorable to Senator Smoot, it is admitted "We accuse him of no offense cognizable by law. * * *" A United States Senator now stands at the bar of the Senate to be tried by you on something so intangible that it is not cognizable by law. What is the charge that forms the foundation for unseating a United States Senator? Mr. Tayler says it is that Senator Smoot believes man may receive revelation! It is mere belief, then, that is attacked, abstract opinion that is assailed, a man's believed communion with God that is assaulted; these are the things not cognizable by law, that are invoked to drive Senator Smoot from the United States Senate, when it is conceded that he is a most exemplary man in every other particular.

This alleged power to receive revelation is declared by the protestants' counsel to be the basis of the attack, it is the alleged basic element running through his argument; after all the testimony is introduced, after all the hue and cry, we are brought to one issue—should a United States Senator retain his seat if he believes man has the capacity to receive revelation from God? This is the offense not cognizable by law which the United States Senate is asked to punish. The record shows Senator Smoot has never in his forty-three years of life received a revelation. He may never receive one. He has never been asked to obey any revelation contrary to law. His only alleged offense is that he entertains the abstract opinion that man has been, and is, capable of receiving revelation and inspiration from God. As the protestants' counsel has made the above alleged principle the pivotal one, it is our duty to examine it with care to ascertain whether the contention is sound, and it must be borne in mind that we can not discuss any alleged basic principle other than revelation, because no other is charged or discussed by the protestants' counsel; the protestants in their judgment have taken the strongest point that exists against Senator Smoot.

There are, in our opinion, two conclusive answers to the proposition that the abstract belief that man is capable of receiving revelation from God unfits him to be a United States Senator.

A. On the law, there is a conclusive answer against this contention.

A contest had been waged for centuries whether man had the right to his opinion and belief without being subjected to punishment, if the same happened to conflict with the opinion of those in authority. Our pilgrim fathers came to this great land to vindicate this principle. They desired to believe what they pleased without being punished. Our ancestors did not always deport themselves with all

wisdom, and the result was a few witches were burned; but all this served to crystallize the un wisdom of punishing thought, opinion, and belief. The theory was gradually being exploded that if one thinks wrong he will do wrong, and therefore punish him in advance. In fact, the controversy took a more elevated plane than punishment; it was becoming an eternal principle of liberty that thought, belief, and opinion were sacred, and as such should be protected, and that it was enough to give the magistrate authority over acts alone. Accordingly we claim in this case and stand upon the proposition that any citizen of these United States has the right to believe and to think as he wills, free from punishment or stricture, and that the United States Government is anchored to this constitutional and fundamental principle. A man may believe in God, or that there is a God, or disbelieve both, or believe in man's capacity to receive revelation, or not to receive, all without let or hindrance; in fact, a citizen of the United States is bulwarked on every side by the Federal Constitution against any invasion by the National Government into his opinion or belief.

We now call attention to the authorities bearing upon this matter. In 1 Story on the Constitution, section 53, it is part said:

" * * * It is well known that the religious dissensions consequent upon the Reformation, while they led to a more bold and free spirit of discussion, failed at the same time of introducing a corresponding charity for differences of religious opinion. Each successive sect entertained not the slightest doubt of its own infallibility in doctrine and worship, and was eager to obtain proselytes, and denounce the errors of its opponents. If it had stopped here, we might have forgotten, in admiration of the sincere zeal for Christian truth, the desire for power and the pride of mind which lurked within the inner folds of their devotion. But, unfortunately, the spirit of intolerance was abroad in all its stern and unrelenting severity. To tolerate errors was to sacrifice Christianity to mere temporal interests. Truth, and truth alone, was to be followed at the hazard of all consequences; and religion allowed no compromises between conscience and worldly comforts. Heresy was itself a sin of a deadly nature, and to extirpate it was a primary duty of all who were believers in sincerity and truth. Persecution, therefore, even when it seemed most to violate the feelings of humanity and the rights of private judgment, never wanted apologists among those of the purest and most devout lives. It was too often received with acclamations by the crowd, and found an ample vindication from the learned and the dogmatists, from the policy of the civil magistrate and the blind zeal of the ecclesiastic.

" Each sect, as it attained power, exhibited the same unrelenting firmness in putting down its adversaries. The papist and the prelate, the Puritan and the Presbyterian, felt no compunctions in the destruction of dissentients from their own faith. They uttered, indeed, loud complaints of the injustice of their enemies, when they were themselves oppressed, but it was not from any abhorrence to persecution itself, but of the infamous errors of the persecutors. There are not wanting on the records of the history of these times abundant proofs how easily sects which had borne every human calamity with unshrinking fortitude for conscience sake could turn upon their

inoffensive but, in their judgment, erring neighbors with a like infliction of suffering. Even adversity sometimes fails of producing its usual salutary effects of moderation and compassion when a blind but honest zeal has usurped dominion over the mind. If such a picture of human infirmity may justly add to our humility, it may also serve to admonish us of the Christian duty of forbearance. And he who can look with an eye of exclusive censure on such scenes must have forgotten how many bright examples they have afforded of the liveliest virtue, the most persuasive fidelity, and the most exalted piety."

In I. Story on the Constitution, section 62, it is said:

"Some of the powers granted by this charter were alarming to many persons, and especially those which granted a monopoly of trade. The efforts to settle a colony within the territory were again renewed, and again were unsuccessful. The spirit of religion, however, soon effected what the spirit of commerce had failed to accomplish. The Puritans, persecuted at home, and groaning under the weight of spiritual bondage, cast a longing eye toward America as an ultimate retreat for themselves and their children. They were encouraged by the information that the colonists at Plymouth were allowed to worship their Creator according to the dictates of their consciences, without molestation. They opened a negotiation, through the instrumentality of a Mr. White, a distinguished nonconforming minister, with the council established at Plymouth; and in March, 1627, procured from them a grant, to Sir Henry Roswell and others, of all that part of New England lying 3 miles south of Charles River and 3 miles north of Merrimack River, extending from the Atlantic to the South Sea."

In I Story on the Constitution, section 622, it is said:

"Experience has demonstrated the folly as well as the injustice of exclusions from office, founded upon religious opinions. They have aggravated all other evils in the political organization of societies. They carry in their train discord, oppression and bloodshed. They perpetuate a savage ferocity and insensibility to human rights and sufferings. Wherever they have been abolished, they have introduced peace and moderation and enlightened legislation. Wherever they have been perpetuated, they have always checked, and in many cases have overturned, all the securities of public liberty. The right to burn heretics survived in England almost to the close of the reign of Charles the Second; and it has been asserted (but I have not been able to ascertain the fact by examination of the printed journals) that on that occasion the whole bench of bishops voted against the repeal. We all know how slowly the Roman Catholics have recovered their just rights in England and Ireland. The triumph has been but just achieved, after a most painful contest for a half century. In the Catholic countries to this very hour, Protestants are, for the most part, treated with a cold and reluctant jealousy, tolerated, perhaps, but never cherished. In the actual situation of the United States, a union of the States would have been impracticable, from the known diversity of religious sects, if anything more than a simple belief in Christianity, in the most general form of expression, had been required. And even to this some of the States would have objected as inconsistent with the funda-

mental policy of their own charters, constitutions, and laws. Whatever, indeed, may have been the desire of many persons of a deep religious feeling to have embodied some provision on this subject in the Constitution, it may be safely affirmed that hitherto the absence has not been felt as an evil; and that while Christianity continues to be the belief of the enlightened and wise and pure among the electors, it is impossible that infidelity can find an easy home in the House of Representatives."

In 2 Story on the Constitution, section 1879, it is said:

"It was under a solemn consciousness of the dangers from ecclesiastical ambition, the bigotry of spiritual pride, and the intolerance of sects, thus exemplified in our domestic as well as in foreign annals, that it was deemed advisable to exclude from the National Government all power to act upon the subject. The situation, too, of the different States equally proclaimed the policy as well as the necessity of such an exclusion. In some of the States, Episcopalians constituted the predominant sect; in others, Presbyterians; in others, Congregationalists; in others, Quakers, and in others again, there was a close numerical rivalry among contending sects. It was impossible that there should not arise perpetual strife and perpetual jealousy on the subject of ecclesiastical ascendancy, if the National Government were left free to create a religious establishment. The only security was in extirpating the power. But this alone would have been an imperfect security if it had not been followed up by a declaration of the right of the free exercise of religion and a prohibition (as we have seen) of all religious tests. Thus, the whole power over the subject of religion is left exclusively to the State governments, to be acted upon according to their own sense of justice and the State constitutions; and the Catholic and the Protestant, the Calvinist and the Arminian, the Jew and the infidel, may sit down at the common table of the national councils without any inquisition into their faith or mode of worship."

In Cooley's Constitutional Limitations (6th edition), pages 571 to 577, it is said:

"A careful examination of the American constitutions will disclose the fact that nothing is more fully set forth or more plainly expressed than the determination of their authors to preserve and perpetuate religious liberty, and to guard against the slightest approach toward the establishment of an inequality in the civil and political rights of citizens, which shall have for its basis only their differences of religious belief. The American people came to the work of framing their fundamental laws after centuries of religious oppression and persecution, sometimes by one party or sect and sometimes by another; had taught them the utter futility of all attempts to propagate religious opinions by the rewards, penalties, or terrors of human laws. They could not fail to perceive, also, that a union of church and state, like that which existed in England, if not wholly impracticable in America, was certainly opposed to the spirit of our institutions, and that any domineering of one sect over another was repressing to the energies of the people, and must necessarily tend to discontent and disorder. Whatever, therefore, may have been their individual sentiments upon religious questions, or upon the propriety of the State assuming supervision and control of religious affairs under other circumstances, the general voice has been that persons of every reli-

gious persuasion should be made equal before the law, and that questions of religious belief and religious worship should be questions between each individual man and his Maker. Of these questions human tribunals, so long as the public order is not disturbed, are not to take cognizance, except as the individual, by his voluntary action in associating himself with a religious organization, may have conferred upon such organization a jurisdiction over him in ecclesiastical matters. These constitutions, therefore, have not established religious toleration merely, but religious equality; in that particular being far in advance not only of the mother country, but also of much of the colonial legislation, which, though more liberal than that of other civilized countries, nevertheless exhibited features of discrimination based upon religious beliefs or professions.

* * * * *

"Those things which are not lawful under any of the American constitutions may be stated thus:

* * * * *

"4. Restraints upon the free exercise of religion according to the dictates of the conscience. No external authority is to place itself between the finite being and the Infinite when the former is seeking to render the homage that is due, and in a mode which commends itself to his conscience and judgment as being suitable for him to render, and acceptable to its object.

"5. Restraints upon the expression of religious belief. An earnest believer usually regards it as his duty to propagate his opinions and to bring others to his views. To deprive him of this right is to take from him the power to perform what he considers a most sacred obligation.

"These are the prohibitions which in some form of words are to be found in the American constitutions, and which secure freedom of conscience and of religious worship. No man, in religious matters, is to be subjected to the censorship of the State or of any public authority; and the State is not to inquire into or take notice of religious belief when the citizen performs his duty to the State and to his fellows and is guilty of no breach of public morals or public decorum."

In Virginia (see vol. 12. Hening's Statutes at Large, pp. 84 to 86) it is said:

"I. Whereas Almighty God hath created the mind free; that all attempts to influence it by temporal punishments or burthens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the holy author of our religion, who being lord both of body and mind, yet chose not to propagate it by coercions on either, as was in His almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others, hath established and maintained false religions over the greatest part of the world, and through all time; that to compel a man to furnish contributions of money for the propagation of opinions which he dis-

believes is sinful and tyrannical; that even the forcing him to support this or that teacher of his own religious persuasion is depriving him of the comfortable liberty of giving his contributions to the particular pastor whose morals he would make his pattern, and whose powers he feels most persuasive to righteousness, and is withdrawing from the ministry those temporary rewards which, proceeding from an approbation of their personal conduct, are an additional incitement to earnest and unremitting labors for the instruction of mankind; that our civil rights have no dependence on our religious opinions, any more than our opinions in physics or geometry; that therefore the proscribing any citizen as unworthy the public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow-citizens he has a natural right; that it tends only to corrupt the principles of that religion it is meant to encourage, by bribing with a monopoly of worldly honors and emoluments, those who will externally profess and conform to it; that though indeed these are criminal who do not withstand such temptation, yet neither are those innocent who lay the bait in their way; that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty, because he being of course judge of that tendency will make his opinions the rule of judgment, and approve or condemn the sentiments of others only as they shall square with or differ from his own; that it is time enough for the rightful purposes of civil government, for its officers to interfere when principles break out into overt acts against peace and good order: and finally, that truth is great and will prevail if left to herself, that she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict, unless by human interposition disarmed of her natural weapons, free argument and debate, errors ceasing to be dangerous when it is permitted freely to contradict them:

“ II. *Be it enacted by the general assembly.* That no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief; but that all men shall be free to profess, and by argument to maintain, their opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

“ III. And though we well know that this assembly, elected by the people for the ordinary purposes of legislation only, have no power to restrain the acts of succeeding assemblies, constituted with powers equal to our own, and that therefore to declare this act to be irrevocable would be of no effect in law, yet we are free to declare, and do declare, that the rights hereby asserted are of the natural rights of mankind, and that if any act shall be hereafter passed to repeal the present, or to narrow its operation, such act will be an infringement of natural right.”

The above volume was published in 1823, and the act is taken “ From revised bills of 1779.”

In the Appendix, Note G, to Blackstone's Commentaries, Tucker's edition, volume 1, part 2, on pages 3 to 7, it is said:

"The right of personal security in the United States comprehends, likewise, the uninterrupted enjoyment of a person's conscience in all matters respecting religion: and of his opinions in all matters of a civil nature.

"The right of personal opinion is one of those absolute rights which man hath received from the immediate gift of his Creator, but which the policy of all governments, from the first institution of society to the foundation of the American republics, hath endeavored to restrain in some mode or other. The mind being created free by the author of our nature, in vain have the arts of man endeavored to shackle it: it may, indeed, be imprisoned for a while by ignorance or restrained from a due exertion of its powers by tyranny and oppression: but let the rays of science or the dawn of freedom penetrate the dungeon, its faculties are instantly rarefied and burst their prison. This right of personal opinion comprehends, first, liberty of conscience in all matters relative to religion, and, secondly, liberty of speech and of discussion in all speculative matters, whether religious, philosophical, or political.

"1. Liberty of conscience in matters of religion consists in the absolute and unrestrained exercise of our religious opinions and duties in that mode which our own reason and conviction dictate, without the control or intervention of any human power or authority whatsoever. This liberty, though made a part of our constitution and interwoven in the nature of man by his Creator, so far as the arts of fraud and terrors of violence have been capable of abridging it, hath been the subject of coercion by human laws in all ages and in all countries as far as the annals of mankind extend. The infallibility of the rulers of nations, in matters of religion, hath been a doctrine practically enforced from the earliest periods of history to the present moment among Jews, Pagans, Mahomedans, and Christians alike.

"The altars of Moloch and of Jehovah have been equally stained with the blood of victims whose conscience did not receive conviction from the polluted doctrines of blood-thirsty priests and tyrants. Even in countries where the crucifix, the rack, and the flames have ceased to be the engines of proselytism, civil incapacities have been invariably attached to a dissent from the national religion. The ceasing to persecute by more violent means has in such nations obtained the name of toleration. In liberty of conscience, says the elegant Doctor Price, I include much more than toleration. Jesus Christ has established a perfect equality among his followers. His command is, that they shall assume no jurisdiction over one another, and acknowledge no master besides himself. It is, therefore, presumption in any of them to claim a right to any superiority of preeminence over their brethren. Such a claim is implied whenever any of them pretend to tolerate the rest. Not only all Christians, but all men of all religions, ought to be considered by a State as equally entitled to its protection, as far as they demean themselves honestly and peaceably. Toleration can take place only where there is a civil establishment of a particular mode of religion—that is, where a predominant sect enjoys exclusive advantages, and makes the encouragement of its own mode of faith and worship a part of the constitution of the State; but at the same time thinks fit to suffer the exercise of other

modes of faith and worship. Thanks be to God, the new American State, but at the same time thinks fit to suffer the exercise of other respect, as well as many others, they have shown in framing their constitutions a degree of wisdom and liberality which is above all praise."

On page 5, in the footnote, it is said:

"Were a bill brought into any parliament entitled 'An act to tolerate or grant liberty to the Almighty to receive the worship of a Jew or a Turk,' or 'To prohibit the Almighty from receiving it,' all men would startle and call it blasphemy. There would be an uproar. The presumption of toleration in religious matters would then present itself unmasked. But the presumption is not the less because the name of 'man' only appears to those laws, for the associated idea of the worshiper and worshiped can not be separated. Who, then, art thou, vain dust and ashes? By whatever name thou art called, whether a king, a bishop, a church, or a state, a parliament or anything else, that obtrudest thine insignificance between the soul of man and its Maker? Mind thine own concerns. If he believes not as thou believest, it is a proof that thou believest not as he believeth, and there is no earthly power can determine between you.

"With respect to what are called denominations of religion, if every one is left to judge of its own religion there is no such thing as a religion that is wrong; but if they are to judge of each other's religion, there is no such thing as a religion that is right. And therefore all the world is right or all the world is wrong. But with respect to religion itself, without regard to names, and as directing itself from the universal family of mankind to the divine object of all adoration, it is man bringing to his Maker the fruits of his heart. And though those fruits may differ from each other, like the fruits of the earth, the grateful tribute of every one is accepted."

On page 8 it is said:

"But what I wish most to urge is the tendency of religious establishments to impede the improvement of the world. They are boundaries prescribed by human folly to human investigation, and inclosures which intercept the light and confine the exertions of reason. Let anyone imagine to himself what effects similar establishments would have in philosophy, navigation, metaphysics, medicine, or mathematics. Something like this took place in logic and philosophy while the ipse dixit of Aristotle and the nonsense of the schools maintained an authority like that of the creeds of churchmen; and the effect was a longer continuance of the world in the ignorance and barbarity of the dark ages. But civil establishments of religion are more pernicious. So apt are mankind to misrepresent the character of the Deity, and to connect His favor with particular modes of faith, that it must be expected that a religion so settled will be what it has hitherto been—a gloomy and cruel superstition, bearing the name of religion."

On page 10 it is said:

"Let no such monster be known there (in the United States) as human authority in matters of religion. Let every honest and peaceable man, whatever is his faith, be protected there, and find an effectual defense against the attacks of bigotry and intolerance. In the United States may religion flourish. They can not be very great and

happy if it does not. But let it be a better religion than most of those which have been hitherto professed in the world. Let it be a religion which enforces moral obligations, not a religion which relaxes and evades them. * * * A tolerant and catholic religion, not a rage for proselytism. * * * A religion of peace and charity, not a religion that persecutes, curses, and damns. In a word, let it be the genuine gospel of peace, lifting above the world, warming the heart with the love of God and His creatures, and sustaining the fortitude of good men by the assured hope of a future deliverance from death and an infinite reward in the everlasting kingdom of our Lord and Saviour."

The above volume was printed, as appears on the flyleaf, in 1803.

In Volume VIII, Jefferson's Works, page 113, by letter dated January 1, 1802, and addressed to a committee of the Danbury Baptist Association in the State of Connecticut, it is said:

"Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith or his worship, that the legislative powers of government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof,' thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties."

Finally, when our National Constitution was adopted, it was provided in article 6 that " * * * no religious test shall ever be required as a qualification to any office or public trust under the United States."

Thomas Jefferson and other broad-minded statesmen did not think that religious belief, thought, and opinion were sufficiently protected by the above, and finally in the first amendment to the Constitution it was provided that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

In 1878 a case came from the Territory of Utah to the Supreme Court of the United States in which Reynolds, the appellant, had been convicted of polygamy. The question at issue was whether the act of going into polygamy was protected as a religious belief under the Federal Constitution: the contrary was decided. Chief Justice Waite delivered the opinion of the Court. This case is reported in 98 U. S., 145 Reynolds v. United States.

On pages 162, 163, 164 it is said:

"Congress can not pass a law for the government of the Territories which shall prohibit the free exercise of religion. The first amendment to the Constitution expressly forbids such legislation. Religious freedom is guaranteed everywhere throughout the United States so far as Congressional interference is concerned. The question to be determined is whether the law now under consideration comes within this prohibition.

"The word 'religion' is not defined in the Constitution. We must go elsewhere, therefore, to ascertain its meaning, and nowhere more

appropriately, we think, than to the history of the times in the midst of which the provision was adopted. The precise point of the inquiry is, What is the religious freedom which has been guaranteed?

"Before the adoption of the Constitution attempts were made in some of the colonies and States to legislate, not only in respect to the establishment of religion, but in respect to its doctrines and precepts as well. The people were taxed, against their will, for the support of religion, and sometimes for the support of particular sects, to whose tenets they could not and did not subscribe. Punishments were prescribed for a failure to attend upon public worship, and sometimes for entertaining heretical opinions. The controversy upon this general subject was animated in many of the States, but seemed at last to culminate in Virginia. In 1784 the house of delegates of that State, having under consideration 'a bill establishing provision for teachers of the Christian religion,' postponed it until the next session, and directed that the bill should be published and distributed, and that the people be requested 'to signify their opinion respecting the adoption of such a bill at the next session of assembly.'

"This brought out a determined opposition. Among others, Mr. Madison prepared a 'Memorial and remonstrance,' which was widely circulated and signed, and in which he demonstrated 'that religion, or the duty we owe the Creator,' was not within the cognizance of civil government. (Semple's Virginia Baptists, appendix.) At the next session the proposed bill was not only defeated, but another, 'for establishing religious freedom,' drafted by Mr. Jefferson, was passed. (1 Jeff. Works, 45; 2 Howison, Hist. of Va., 298.) In the preamble of this act (12 Henning's Stat., 84) religious freedom is defined; and after a recital 'that to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy, which at once destroys all religious liberty,' it is declared 'that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order.' In these two sentences is found the true distinction between what properly belongs to the church and what to the State.

"In a little more than a year after the passage of this statute the convention met which prepared the Constitution of the United States. Of this convention Mr. Jefferson was not a member, he being then absent as minister to France. As soon as he saw the draft of the Constitution proposed for adoption, he, in a letter to a friend, expressed his disappointment at the absence of an express declaration insuring the freedom of religion (2 Jeff. Works, 355), but was willing to accept it as it was, trusting that the good sense and honest intentions of the people would bring about the necessary alterations. (1 Jeff. Works, 79). Five of the States, while adopting the Constitution, proposed amendments. Three—New Hampshire, New York, and Virginia—included in one form or another a declaration of religious freedom in the changes they desired to have made, as did also North Carolina, where the convention at first declined to ratify the Constitution until the proposed amendments were acted upon. Accordingly, at the first session of the First Congress, the amendment now under consideration was proposed, with others, by Mr. Madison. It met the views of the advocates of religious freedom and was adopted. Mr. Jefferson

afterwards, in reply to an address to him by a committee of the Danbury Baptist Association (8 id., 113), took occasion to say: 'Believing with you that religion is a matter which lies solely between man and his God; that he owes account to none other for his faith or his worship; that the legislative powers of the Government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion or prohibiting the free exercise thereof," thus building a wall of separation between church and state. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore man to all his natural rights, convinced he has no natural right in opposition to his social duties.' Coming as this does from an acknowledged leader of the advocates of the measure, it may be accepted almost as an authoritative declaration of the scope and effect of the amendment thus secured. Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order."

In *Compilation of Senate Election Cases, 1789-1885*, Taft (continued to 1893, Furber; continued to 1903, Buck), it appears on page 967 that Lazarus W. Powell was a Senator from Kentucky from March 4, 1859, until March 3, 1865. A resolution was submitted that Mr. Powell be expelled from the Senate. It was accompanied by a preamble setting forth certain conduct of Mr. Powell, which showed "his purposes, if not his acts, were treasonable." This resolution was referred to a committee, and it later appeared from remarks made by the chairman of the committee that Mr. Powell's "opinions differed from the opinions of the speaker, but that no man was to be expelled because he disagreed with others in opinion." So the resolution was not agreed to and Mr. Powell retained his seat.

In other words, it appeared that Senator Powell had certain opinions and beliefs which were not in strict accord with what was considered patriotic at that time, but all his acts and conduct were in accordance with a patriotic standard. Accordingly the Senate refused to punish Senator Powell for his beliefs and opinions.

In the face of this array of authority and of such long standing, the counsel for protestants makes the contention that because Senator Smoot believes in man's capacity to receive a revelation he should be expelled from the United States Senate. It is clear that to unseat a Senator because he believes in a certain principle or entertains certain opinions, or has certain religious convictions, is to impose a religious test as a qualification to hold office, which is contrary to article 6 of the Federal Constitution.

If a man who believes in revelation can not be a United States Senator, then that man is punished for his opinion. If a man should be excluded from the United States Senate because he does not believe in revelation, he would be punished for his opinion. It is unnecessary to elaborate or reason further; the result is so self-evident that if it is not plain now we despair making it so. We resort to learned men for a demonstration.

In 1 Story on the Constitution, section 622, it is in part said:

"Experience has demonstrated the folly as well as the injustice of exclusions from office founded upon religious opinions. They

have aggravated all other evils in the political organization of societies. They carry in their train discord, oppression, and bloodshed; they perpetuate a savage ferocity and insensibility to human rights and sufferings. Wherever they have been abolished they have introduced peace and moderation and enlightened legislation; wherever they have been perpetuated they have always checked, and in many cases have overturned, all the securities of public liberty.

In 2 Story on the Constitution, section 1847, it is in part said:

"The framers of the Constitution were fully sensible of the dangers from this source marked out in the history of other ages and countries, and not wholly unknown to our own. They knew that bigotry was unceasingly vigilant in its stratagems to secure to itself an exclusive ascendancy over the human mind, and that intolerance was ever ready to arm itself with all the terrors of the civil power to exterminate those who doubted its dogmas or resisted its infallibility."

In the same section it is again said:

"But this point being once secured, all persecution for diversity of opinions, however ridiculous or absurd they may be, is contrary to every principle of sound policy and civil freedom."

If Senator Smoot is expelled it is because of his religious belief; counsel for the protestants so charges and argues, and we again quote what should be decisive of this question, 2 Story on the Constitution, section 1879, to wit:

"It was under a solemn consciousness of the dangers from ecclesiastical ambition, the bigotry of spiritual pride, and the intolerance of sects, thus exemplified in our domestic as well as in foreign annals, that it was deemed advisable to exclude from the National Government all power to act upon the subject. The situation, too, of the different States equally proclaimed the policy as well as the necessity of such an exclusion. In some of the States Episcopalians constituted the predominant sect, in others Presbyterians, in others Congregationalists, in others Quakers, and in others again there was a close numerical rivalry among contending sects. It was impossible that there should not arise perpetual strife and perpetual jealousy on the subject of ecclesiastical ascendancy if the National Government were left free to create a religious establishment. The only security was in extirpating the power, but this alone would have been an imperfect security if it had not been followed up by a declaration of the right of the free exercise of religion and a prohibition (as we have seen) of all religious tests. Thus, the whole power over the subject of religion is left exclusively to the State governments, to be acted upon according to their own sense of justice and the State constitutions; and the Catholic and the Protestant, the Calvinist and the Arminian, the Jew and the infidel, may sit down at the common table of the national councils without any inquisition into their faith or mode of worship."

In 13 Wallace, 728, *Watson v. Jones*, it is said:

"In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights is conceded to all. The law knows no heresy and is committed to the support of no dogma, the establishment of no sect."

In the face of the above the counsel for the protestants drags his strongest and only weapon from the grave of long ago and seeks now to establish as a crime that man should even have an opinion as to his capacity to receive revelation from his God. The words and spirit of the opposing argument are that Senator Smoot should be punished now for his belief; an overt act is unnecessary. This punishment is to be exclusion from office, which undoubtedly is punishment, as well as a religious test, under the words and spirit of the Federal Constitution. (4 Wall., 333, *ex parte Garland*.)

The counsel for the protestants narrates the alleged evils that follow from the principle of modern revelation; not conceding as a fact that evils follow from modern revelation, but admitting such for the sake of argument, and further admitting the existence of all the evils portrayed and exaggerated by counsel for the protestants, still, they are not a thousandth part of the evil of punishing opinions and beliefs, and we appeal to the foregoing authorities as conclusive. No matter how bad modern or ancient revelation may be, they are infinitely better than the punishment of opinions and beliefs.

Note how much Mr. Tayler, counsel for the protestants, has changed in regard to the freedom of religious belief between the commencement of this case and the argument. At the beginning, it is alleged in the protest, Vol. I, page 25:

"We wage no war against his religious belief as such. We no not to the slightest extent deny him the same freedom of thought, the same freedom of action within the law, which we claim for ourselves."

The Mormon Church consists of about 300,000 members, the reorganized Church of Jesus Christ of Latter-Day Saints consists of about 50,000 members; the above, and many persons in all Christian religious denominations, believe in man's capacity to receive revelation. Are all these persons to be punished for mere opinion and belief? If persons may be punished for entertaining certain beliefs, they may logically be punished for *not* entertaining certain beliefs. This kind of tyranny takes us right back to the dark ages, and at once destroys the handiwork and spirit of our constitutional fathers.

Senator Knox asked counsel for the protestants three questions, and we refer to them and the answers given. They immediately precede this argument.

As it is an integral part of the Mormon religion and of the reorganized Church of Jesus Christ of Latter-day Saints and of many other persons in the Christian religious denominations that man has the capacity to receive revelation, it follows that, if Senator Smoot may be expelled for such belief on his part, any lay member of any church, or any person not belonging to a church, so believing, may be expelled; if the United States Senate may expel a Senator because of so believing then it may do directly what it thus does indirectly, and in that event could pass a Federal statute prohibiting any person from holding any Federal office or position who entertains any such belief; and thus there would be excluded from Federal office not only persons in the Mormon Church but all other persons who so believe, whether in the reorganized Church of Jesus Christ of Latter-day Saints or any other churches, together with those persons who so believe but do not belong to any church.

Why is a person of high position in a church less eligible to hold

office than a person of low position, both believing the same and holding similar opinions? If Senator Smoot is ineligible to hold his position because of his belief in revelation, then, logically, how can any person holding the same belief be eligible?

This position of the protestants is emphasized in this testimony, volume 1, page 42, where it appears:

"Mr. TAYLER. The Mormon priesthood, according to the doctrine of the church and the belief and practice of its membership, is vested with and assumes to exercise supreme authority in all things, temporal and spiritual, civil and political. The head of the church claims to receive divine revelations, and these Reed Smoot, by his covenants and obligations, is bound to accept and obey, whether they affect things spiritual or things temporal.

"Second, the first presidency——

"Senator BEVERIDGE. Is that the first proposition upon which you base your contest against the respondent?

"Mr. TAYLER. Yes, sir.

"Senator BEVERIDGE. His membership in the Mormon Church?

"Mr. TAYLER. Yes, sir; exactly.

"Senator BEVERIDGE. I am merely asking for information: but would or would it not mean that no member of the Mormon Church has a right to hold office?

"Mr. TAYLER. I think that is true. Of course the committee will understand that as a practical and as a public question there is a very marked and proper distinction to be made between a layman in the Mormon Church and one who is in high official position, who is himself authorized to receive revelations and impart them to his inferiors, who must obey those revelations thus imparted."

Mr. Tayler, in his closing argument, stated that he was sorely misunderstood if the distinction was not clear between the revelation a Gentile receives by communing with God and the revelation a Mormon receives by communing with God. It is not clear to us by any means why God should treat a Gentile differently from a Mormon when each offers an earnest prayer for help. The counsel for the protestants has not elucidated this point, unless it is in the statement that God personally appears to a Mormon while He does not to a Gentile. If it be assumed (as Mr. Tayler argues) that God personally appears to Mormons and not to Gentiles, then we should all believe what the Mormon says in regard to revelation, as it comes from personal communion. If it be assumed that Mormons and Gentiles receive revelations from God in the mode religious people generally believe, then they are on an equality as to opinion and belief; that is, the revelation is more of a conception or conviction than an actual communion. It is impossible to tell just how men are persuaded and finally convinced as to a certain result or conclusion; this may be by inspiration; it may be by revelation; it may be mere persuasion; it may be reason; it may be fear of social ostracism; it may be fear of financial loss; it may be that mere politics produce the result; but in any event, the analytical mind of Senator Hoar was struck with the proposition whether this mere belief or conviction can properly be reached, and Senator Hoar's opinion seems to us to be to the effect that it can not. In this case, volume 1, page 464, it appears:

"Senator HOAR. I want to say this, Mr. Tayler. I have some little hesitancy whether I had better do it now, but I will. How do you

distinguish this obligation of Mr. Smoot which you propose to show, and which you have put in a good deal of evidence tending to show, to obey, without regard to his own opinion or belief, the dictates of a hierarchy to which he belongs, from the obligation which is asserted by so many excellent citizens in both political parties to obey the behests of their party in regard to important public questions?

"Mr. TAYLER. I have a very well defined——

"Senator HOAR. Perhaps you would rather not state that now?

"Mr. TAYLER. I would rather not state it now, because it would be so incomplete a statement of my position, but that reflection has passed through my mind and I am ready to answer it to my satisfaction, at any rate.

"Senator HOAR. I should like to hear from you in regard to that. One of the best beloved of our statesmen told me, with tears in his eyes, that he was utterly opposed to a certain political policy which he thought was going to bring the Republic to destruction. I said to him, 'Why do you not oppose it then, publicly?' To which he answered, 'I am going with my party.'"

Senator HOAR, in this case, again expressed himself on this general subject. See Volume I, page 485, where it is said:

"Senator HOAR. I think I will say now, for the information of everybody, that the putting of questions which might seem to imply, in my mind, when I put them, a pretty strong sense of the inconsistency and delusion of the religious faith, so-called, of the witness—and in saying that I suppose I may add that a great many members of different sects attribute both inconsistency and delusion to others—must not be taken to imply in my mind, as at present advised, any opinion one way or the other as to the right of the people who hold that religious faith, whether inconsistent or a delusion, or even not sincere, to send one of that faith to the United States Senate under our Constitution and laws if the person so holding it has not violated law himself or is not engaged in an association which has for its object the violation of law. I do not wish to be taken by the public or counsel or anybody else, by putting the questions I have or any others which I may put, as indicating an opinion on that final question."

Senator Bailey expressed his opinion on this matter of belief very early in the proceedings. See Volume I, page 99, where he said:

"Senator BAILEY. Before we proceed any further, I assume that all these questions connected with the religious faith of the Mormon Church are to be shown subsequently to have some relation to civil affairs. Unless that is true I myself object to going into the religious opinions of these people. I do not think Congress has anything to do with that unless their religion connects itself in some way with their civil or political affairs."

In the case before quoted from, 98 U. S., 162, *Reynolds v. United States*, it is said:

"Congress can not pass a law for the government of the Territories which shall prohibit the free exercise of religion. The first amendment to the Constitution expressly forbids such legislation. Religious freedom is guaranteed everywhere throughout the United States, so far as Congressional interference is concerned."

Suppose the Congress should pass a law to the effect that no person can be a United States Senator or hold any Federal office if he

believes or has the opinion that man is capable of receiving a revelation from God; and suppose this act should be taken before the Supreme Court of the United States and tested as to its validity. Is it not clear that this statute would be declared unconstitutional? If yes, then the same answer should be given in the case at bar. If a statute to the above effect can not be passed directly, then indirectly the same result should not be reached.

B. On the facts there is a conclusive answer to the protestants' contention that Senator Smoot should be ousted from his seat in the United States Senate because of his religious belief.

If this belief of the Mormon people was known to the National Government and to the people of the United States before Utah was admitted as a State, then, when Utah was admitted, it was with full knowledge of all the Mormon people believed and were alleged to have believed, all they had done and all they were alleged to have done, and all they had omitted to do, and all they were charged with omitting to do. Hence, no legitimate objection can lie unless something new and sufficient in itself is shown to have come into existence since Utah became a State.

While, in argument, it has not been urged as a reason to expel Senator Smoot, yet stress has been laid upon the alleged violations of law by the Mormon people, and upon their alleged antagonism to the National Government; hence, it is pertinent in a general way to show how much the National Government and the people of the United States knew about these things before Utah became a State.

It was known to the National Government and to the people of the United States that the Mormon people had had trouble with the people of Missouri, Illinois, and Iowa many years ago. All of this was ancient history. It was known that Joseph Smith and Hyrum Smith had been murdered, and that finally the Mormon people started on their long pilgrimage to the west.

It likewise had been known to the National Government and to the people of the United States that the Mormon people were in antagonism to the General Government in Utah, and that much trouble and bitterness existed for many years. The trouble that Brigham Young, while governor of the Territory of Utah, had with the National Government was also well known.

In short, the Mormon people have been more or less before the nation for years; no one will undertake to say that their alleged wrong-doing had been understated by people who were opposed to them. Everything was known up to statehood, as E. B. Critchlow testified. (Vol. I, p. 634, and see 631-633.) Therefore the National Government and the people of the United States were fully advised of all that had been done and that was alleged to have been done by the Mormon people up to the time that Utah was admitted into the Union.

The Congress had passed considerable legislation, which never would have been enacted except for the existence of the Mormon people. While these laws had effect in all the Territories of the United States, yet practically they only had application to the Territory of Utah. The Congress first passed an antibigamy act in 1862, and is found in 12 United States Statutes, 301, and relates to polygamy and other matters.

In 1874 the Congress passed another act relating to United States

marshals, United States district attorneys, juries, and other matters. This is found in 18 United States Statutes, 253.

In 1882 the Congress passed what is known as the Edmunds bill. In this act polygamy is defined and punishment is provided. Unlawful cohabitation is also defined and punishment provided. This act will be found in 22 United States Statutes, 30-32.

In 1887 the Congress passed a bill which is commonly known as the Edmunds-Tucker bill. This act provided, among other things, for the escheat of certain property belonging to the Mormon Church. This act is found in 24 United States Statutes, 635.

From this legislation, it is apparent that the Congress and the people of the United States were fully aware of the Mormon people in the Territory of Utah, and what they were doing, and what they were alleged to have done.

The records of the Congress show that a hearing was had in regard to legislation which would apply particularly to the Mormon people. This was in the House of Representatives, Forty-ninth Congress, first session, report 2735, on Senate bill 10. This report consists of hearings on such bill before the Judiciary Committee of the House of Representatives. It commenced April 15, 1896, and the record makes 282 pages. This record shows that many prominent Gentiles of the Territory of Utah appeared and made their statements.

In 1888 a hearing was had in the United States Senate, before the Committee on Territories, on the admission of Utah as a State. This hearing commenced February 18, 1888, before the Senate committee, and the record consists of 162 pages.

Another hearing was had in January, 1889, before the Committee on Territories, in the House of Representatives, Fiftieth Congress, second session, No. 4156, on the admission of Utah as a State. The record consists of 295 pages and corresponds to the hearings in the Senate in 1888.

Another hearing was had in 1892, House of Representatives, Fifty-second Congress, first session, report 943. This was a bill providing for local government for the Territory of Utah. A similar hearing was had before the Committee on Territories in the United States Senate.

An inspection of the records on these different hearings will convince the most skeptical that all the omissions and commissions of the Mormon people were brought before the committees. Everything that the Mormon people were alleged to have done, or that they were charged with omitting to do, was brought forward and the committee given all the information that was possible to be had. It is not saying too much that, as a general rule, the statements regarding the Mormon people were not understated. We refer to this for the purpose of demonstrating that the Congress and the people of the United States were fully informed of everything that had ever occurred regarding the Mormon people.

The Congress and the people of the United States were also informed regarding the Mormon people in another way.

In 98 United States, 163, *Reynolds v. United States*, it appears that the appellant was convicted of polygamy, and the report shows that his defense was that he was protected by the Federal Constitution, because he claimed that polygamy was a part of his religion, and that the revelation to this effect was given to Joseph Smith.

In 114 United States, 45, is the case of Ramsey *v.* Murphy, in which the peculiar beliefs of the Mormon people are more or less commented upon.

In 116 United States, 55, is the case of Cannon *v.* United States. This was a case of unlawful cohabitation. So that this matter was fully ventilated and brought to public attention.

In 133 United States, 333, is the case of Davis *v.* Beason. This case involved the test oath passed by the legislature of Idaho, and was intended to reach members of the Mormon Church, or of other denominations who taught similar doctrines. This case was carried through all the courts, and necessarily received much public attention.

In 136 United States, 1, is what is called the Mormon Church case. It is the case in which the United States escheated a large amount of property belonging to the Mormon Church.

After the ancient history of the Mormon people, after the Congressional enactments, after the hearings before different committees in the House of Representatives and the Senate, and after the many cases in the Supreme Court of the United States, it is idle to contend that the National Government and the people of the United States were not fully informed as to the Mormon people and their beliefs, and particularly as to their belief in modern revelation. The Mormon Church, or, to give it its proper name, the Church of Jesus Christ of Latter-Day Saints, promulgated a manifesto in 1890, which was presented to one of their semi-annual conferences and unanimously adopted; and later at another conference again unanimously adopted. This manifesto prohibited the future contracting of polygamous marriages. This also was known to the National Government and the people of the United States.

The counsel for the protestants read from the report of Arthur L. Thomas, governor of the Territory of Utah, for 1889. We now call attention to some of his reports in later years, and also to still later reports made by Caleb W. West, governor of the Territory of Utah, and all addressed to the proper officers of the Federal Government.

In 1891, Arthur L. Thomas, as governor of the Territory of Utah, made a report to the Secretary of the Interior. This report is dated October 1, 1891. On pages 43 and 44, Governor Thomas calls attention to polygamy and to the manifesto above mentioned, and then, in substance, says that the unexpected had happened in that the people had renounced the practice of polygamous marriages. Finally, on page 44, Governor Thomas says:

"When the Mormon people declared, at a general gathering, that polygamy was a vital part of their religion, I accepted their action as a sincere expression of their views. Now that they have, in the same public way, resolved to refrain from violating the law prohibiting polygamy in the future, I think their action should be regarded as sincere until there is good reason for thinking otherwise."

Arthur L. Thomas, as governor of the Territory of Utah, in his report to the Secretary of the Interior, dated October 1, 1892, again refers to the subject of polygamy and, on pages 51-52, says:

"I know of nothing which has transpired during the past year to lead me to qualify the opinions above expressed, so far as the Mormon leaders and the Mormon people as a whole are concerned. I do not

believe that any polygamous marriages have taken place with the consent or permission of the Mormon leaders, and I also believe that it is the sincere intention of the Mormon people not to approve or sanction polygamous marriages for the future. I also believe that the large majority believe it now to be wrong to live in unlawful cohabitation. There is no doubt, however—for the evidence on this point is conclusive—that many persons who contracted polygamous marriages before the manifesto was issued have been guilty of unlawful cohabitation. Human nature does not change by the kind of church it enters, and there are Mormons who, because they have the opportunity, are deliberately violating the law prohibiting unlawful cohabitation. It is to be regretted that the sincerity of a whole people in seeking to accomplish a great reform should be placed under suspicion by the acts of a few, but such is the case. It will probably be some time—it may be years—before the practice of unlawful cohabitation will finally cease. I think, though, that if the majority of the Mormon people could have their way, it would cease now and forever."

On pages 57 and 58 of the same report Governor Thomas says:

"In the consideration of the political situation the question of the sincerity of the people arises. Very much has been said of church dictation in political matters. While it is natural to expect that for some years old influences will be discernible when Mormon and non-Mormon candidates are on party tickets, yet their influence will gradually grow less. But still it is true that the suspicion and the fear of church dictation still exists, and, strange as it may seem, this feeling is not confined to the Liberal party. After the municipal election in Logan the Herald, the Democratic organ, declared that the Democratic candidates were defeated by church influences, and at the municipal election in Provo the Democratic paper published there declared that local church influence was being used to defeat the Democrats. It is but just to the church leaders to say that they denied the charge of interfering in the Logan election, and that in Provo the Democrats were challenged to produce the proof of church interference, but failed to do so.

"There is no doubt but that if the church desired to it could control the result of any election, but I am inclined to believe it will not try to do so. A time has been reached in the history of the Territory when it can not do so without being subject to exposure and criticism. Every day which passes is widening the chasm which separates the Utah of the past from the Utah of the present, and there is every reason to believe that the dissensions caused by exciting political contests will cause the people to think and act for themselves.

"Every day which passes is making it more difficult for the Mormon Church to dictate the political policy of its members; if it has any desire to do so, and the president of the church emphatically declares it has not.

"The division of the Mormon people into political parties is fast becoming an accomplished fact, and in my opinion it is the intention of the people to keep perfect faith with the party they decide to join.

"It is undoubtedly the intention of the large majority of the members of the Liberal party to maintain their organization until they are ready for statehood."

Still later Caleb W. West, as governor of the Territory of Utah, in his report to the Secretary of the Interior, dated October 2, 1893, says, on pages 18-19:

"I suppose it will not be disputed, but for the teaching and practice of polygamy, and as contended, the existence and rule of a political party in the Territory under the direction and control of the Mormon Church and its priesthood, Utah would long ago have become a sovereign State. As hereinbefore stated, the practice of polygamy has been absolutely abandoned. The People's or Mormon Church party has been dissolved and no longer has either an organization or membership. The highest authorities of the Mormon Church, their chief men and leaders, upon all proper occasions have publicly denied that they claim the right to, or do, or will attempt to exercise any church influence or power to control the political action of its members."

In 1895 Caleb W. West, as governor of the Territory of Utah, made another report to the Secretary of the Interior, dated September 24, 1895, and on page 24 says:

"It should be, and I trust is, a matter of infinite satisfaction to the whole country, as it is to the people of this Territory, that the movement begun in 1886 to obliterate the divisions, remove the bitterness, and heal the strife existing in Utah, which had so long prevented its admission as a State, are about to be consummated in the entrance of Utah into the Union as a great and prosperous State with a homogeneous, thriving, contented, peaceful, and happy people."

People generally knew that the revelations of the Mormon people were contained in the Doctrine and Covenants, which mostly, if not entirely, was made up of modern revelations. One of these is:

"21. Let no man break the laws of the land, for he that keepeth the laws of God hath no need to break the laws of the land."

"22. Wherefore be subject to the powers that be until He reigns whose right it is to reign, and subdues all enemies under His feet."

"23. Behold, the laws which ye have received from my hand are the laws of the church, and in this light ye shall hold them forth. Behold, here is wisdom."

In another part of the Doctrine and Covenants is found the following regarding the Federal Constitution:

"Therefore it is not right that any man should be in bondage one to another, and for this purpose have I established the constitution of this land by the hands of wise men whom I raised up unto this very purpose, to redeem the land by the shedding of blood."

This last revelation was given in the year 1833.

No one can truthfully dispute but what the people of the United States and the National Government were officially and otherwise fully informed, as above appears, regarding the Mormon people and their beliefs. So that there can be no legitimate claim of ignorance on any points that are urged against the Mormon people in this hearing.

If modern revelation—that is, if opinions and beliefs regarding modern revelation—were as objectionable to the Congress and to the people of the United States as is urged by counsel for the protestants, then it would naturally be expected that the endeavor would have been to pass prohibitions against those beliefs and opinions when Utah attempted to become a State, or that Utah would be kept out of

the Union. In any event it would not be expected, if the opposing argument is true, that religious sentiment and belief in the Territory of Utah would be protected by express words: such, however, is the case.

The enabling act for the Territory of Utah was passed in 1894, and will be found in 28 United States Statutes, page 107, and it is said under "First," in section 3, page 108, to wit:

"That perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: provided, that polygamous or plural marriages are forever prohibited."

Here is an express recognition that there shall be perfect toleration of "religious sentiment." In other words, each person is at liberty to think, to believe, and to have opinions as he may see fit. The Congress no more attempted to interfere with the sacred domain of thought than did our constitutional fathers who adopted the Constitution and the amendments thereto providing for religious liberty.

If the opposing argument in regard to modern revelation is sound, the Congress should not have passed the act in question, particularly it should not have provided for the perfect toleration of religious sentiment.

It would naturally be expected, if the opposing argument is sound, that Congress would have attempted to compel the Mormon people to give up their religious beliefs and opinions before allowing Utah to become a State. Instead, however, Congress provided that the constitution of the State of Utah should provide for the freedom of religious sentiment, and in every way the Congress took the same broad view of the freedom of religious belief that was taken many years before by our great constitutional writers.

The constitutional convention of the State of Utah prepared a constitution which was submitted for approval. This is found in the Revised Statutes of Utah, 1898, page 37, et seq., and in section 4 of article 1 thereof it is provided:

"The rights of conscience shall never be infringed. The State shall make no law respecting an establishment of religion or prohibit the free exercise thereof; no religious test shall be required as a qualification for any office of public trust or for any vote at any election, nor shall any person be incompetent as a witness or juror on account of religious belief or the absence thereof. There shall be no union of church and state, nor shall any church dominate the State or interfere with its functions."

The State of Utah undertook to protect the freedom of religious thought as amply as has any commonwealth in the Union. This constitution was submitted to the proper Federal authority and was approved, and Utah became a State January 4, 1896.

Under these circumstances it is idle to contend that Senator Smoot should be ousted from his seat in the United States Senate because he believes that man is capable of receiving revelation. If Senator Smoot or any other man so believes, he is protected in that belief, both in the constitution of Utah and in the Constitution of the United States, and it is unbelievable that the United States Senate is going to take the extreme view that is urged upon it, to the effect that if a man believes in revelation he is to be ousted from the United States Senate.

Senator BEVERIDGE. I do not know whether you are coming to it, but if not, I should like to direct your attention to this point. I understand you to say that since 1890 the practice of polygamy, as a practice of the church, has been discontinued. Has the teaching of that belief, as a doctrine of the church, been discontinued? I do not know whether you are coming to it or not.

Mr. VAN COTT. I answer yes; but that is within the discussion of Colonel Worthington.

Senator BEVERIDGE. Very well.

Mr. VAN COTT. Much has been said in this record regarding the reconvened convention. It must be remembered that it was held in October, 1895, before Utah became a State, and the Gentiles in Utah had full knowledge regarding the same. So that it can not now be claimed that anything new occurred after statehood.

It should operate as a pardon to Utah for all actual and alleged offenses on its admission into the Union, as the Government and people of the United States had full knowledge. The effect of a pardon "reaches the punishment prescribed for offenses and the guilt of the offender." (4 Wall., 334, ex parte Garland.)

Counsel for the protestants has not developed one point or one fact in this investigation, which was not fully known before Utah became a State, unless it is one case of polygamy since the manifesto of 1890. So far as my memory now serves, everything was known theretofore by the Gentiles of Utah, by the people of the United States, and by the Congress; particularly, it was known that the Mormon people believed in modern revelation. Nothing was hidden; it was all a clear book. The Gentiles of Utah had waged a fight too long, and too hard, and too unrelenting, to let Utah come into the Union until they were assured that the objectionable practice of polygamous marriages had ceased.

As to all other matters they chose to remain silent. The Gentiles of Utah had the power to keep Utah from coming into the Union. They could have made a contest that would have kept Utah a Territory until they were satisfied that it was fit for statehood. Therefore, for a few persons, without any new facts, to come before this committee and attempt to drive out of the United States Senate a man exemplary in every particular is infamous.

We are back again to the original charge. "We accuse him of no offense cognizable by law, * * * ." From what has been said it would be natural to expect that the Mormon people would shift considerably in their political convictions for the reasons before stated, and the pertinent question now is whether, in Idaho and Utah, the shifting was arbitrary and unreasonable, or whether it was the kind that runs through the political parties in other States of the Union where similar conditions exist. If it is found that the people in Idaho and Utah were moved and influenced by that common sentiment which moved and influenced Maine, New York, Missouri, and other States in the Union, then there is nothing to criticise, and we say that the facts demonstrate that Idaho and Utah were influenced by such common sentiment.

Let us first take the alleged interference of the Mormon Church in Idaho politics:

After deliberation we have concluded that it conduces to clearness

to follow each witness through in the general way instead of making a general statement and then citing each witness's testimony.

At the outset we say that practically all of the testimony on this subject introduced by the protestants is hearsay and rumor, and legitimately the respondent should not be called upon to respond.

Three witnesses testified on Idaho politics for the protestants, namely, Calvin Cobb, a Gentile, whose testimony is in volume 1, commencing at page 762; Charles H. Jackson, a Gentile Democrat, whose testimony is in volume 2, commencing on pages 196 and 206, and William Balderston, a Gentile, whose testimony is contained in volume 2, commencing on pages 349 and 405.

We call attention first to Calvin Cobb, volume 1, page 762.

He states that about one-fifth of the population of Idaho is Mormon (p. 762). That it is not the general repute that there have been plural marriages since the issuance of the manifesto in 1890 (p. 763). That there is no statute in Idaho against unlawful cohabitation (p. 763). That there are 79 members in the legislature (p. 763). That the chairmen of both political parties go to Salt Lake to see the Mormon Church (p. 763). That the Mormon Church can get whatever it desires from either of the political parties in Idaho (pp. 764-769). That a resolution was passed through the Idaho legislature providing for the calling of a convention to amend the Idaho constitution. This passed almost unanimously (p. 768). There were only one or two votes against it (p. 770). The majority of the people in Idaho are Gentiles (p. 768). There was no demand by the people of Idaho to amend the State constitution (p. 769). There were only 11 Mormons out of the 69 members in the legislature (p. 774).

Charles H. Jackson's testimony is found in volume 2, commencing at pages 196 and 206. Mr. Jackson is a Gentile and a Democrat. He was originally from New York City. He was chairman of the State Democratic committee in Idaho during the campaign of 1904.

He states that the Mormon Church was the paramount issue in 1904 (p. 197); that the Mormon Church procured the passage of a bill providing for a bounty on sugar; that the Mormon Church and Joseph F. Smith own the control of the sugar factories in Idaho, with one exception; that it takes a two-thirds vote of the legislature to amend the Constitution (p. 229); that Mr. Morrison, a Republican and governor of Idaho until 1905, was defeated for renomination in 1904 by the Mormon people; that Mormon Democrats did not vote their ticket in 1904; that unless the Mormon Church supports an individual he might as well give up, there is no hope for him (p. 198); that the sugar factories in 1903 earned about \$76,000 in bounty, and in 1904 about \$150,000, and only \$20,000 has been appropriated by the Idaho legislature (p. 199).

That Mr. Gooding, a Republican and nominated for governor of Idaho in 1904 and elected, was nominated by the Mormon Church (p. 201); that in the Democratic State convention the Mormons voted down a proposed clause in the platform punishing adultery; that it was a Republican legislature that passed the sugar-bounty bill (p. 210). Mr. Jackson was opposed to any bounties (p. 210); he finally acknowledged that he did not know what amount the Mormon Church owned in the sugar factories in Idaho (pp. 211-212). That many leading Republicans were opposed to the renomination of Mr. Morrison as

governor (p. 213). He can not state whether or not Mr. Gooding is a Mormon (p. 215). The Australian ballot system is in force in Idaho. The Democratic party made the Mormon question the paramount issue in the campaign, and endeavored to get the Republicans to so agree.

William Balderston testified, and his testimony is contained in volume 2, commencing at pages 349 and 405. He states that the attorney-general of Idaho in 1904 was a Mormon, and he held invalid the resolution that was passed by the legislature calling for a convention to amend the constitution (pp. 354-355, 359-360). A majority of the people in Idaho are Gentiles (p. 365).

We have not undertaken to state everything that these witnesses testified to, but only the salient points. Much that was testified to by the above three witnesses can properly be disposed of without reference to the testimony of witnesses produced by the respondent. There were only 11 Mormons out of 69 members in the legislature. It takes a two-thirds vote to pass a resolution to amend the constitution (p. 229).

The protestants' witnesses admit that all but one or two members voted for the resolution to amend the constitution. It is apparent, therefore, that the Mormon members could not have done this alone, and did not hold the balance of power, as the vote was practically unanimous. The Mormon people only control at the most, six counties. Mr. J. H. Brady, State chairman of the Republican committee for Idaho in 1904, states that the Mormons only have a majority in five counties. In what are called the six Mormon counties, there are about 6,000 Gentiles, and there are only about 600 Mormons in the State of Idaho outside of the Mormon counties. At the most, the Mormons only have one-third of the legislature. The witnesses agree that they have about one-fourth or one-fifth. As Idaho is strongly Republican, it follows that the small minority of the Mormons can not control, and all the witnesses say that the Mormon people do not control.

While the amounts above-mentioned were earned as bounty on sugar, only \$20,000 was appropriated, and none of that has been paid (p. 209-210).

Some of the above witnesses say that Mr. Gooding could not have been nominated as governor without the Mormon counties. This is an error. In volume 2, page 216, it appears that the total of Mr. Gooding's vote was 41,877. Mr. Heitfeld was the nominee of the Democrats for governor, and his vote was 24,192. That is, Mr. Gooding had a plurality of 17,685. The total vote in the six Mormon counties for governor was 14,668, which would give Mr. Gooding a majority of at least 3,000 votes in the Gentile counties.

There are at least 6,000 Gentiles in what are called the six Mormon counties, and only 600 Mormons in the State of Idaho in the Gentile counties. Therefore it was sheer perversity on the part of Mr. Jackson to contend that Mr. Gooding could not have been nominated or elected without the Mormon vote. It is also a manifest absurdity to contend that 11 Mormons either can or do control the legislature of Idaho, or that one-third of the voters either can or do control the political conventions in Idaho. If a small minority of the Mormon people are capable of controlling legislatures, political conventions, and State politics, then I suggest it would be a good idea for the national Democratic committee to import a few of the Mormon people into each of the Republican States in the West, North, and East for the purpose of accomplishing like results.

The three witnesses also stated that Latah County instructed its delegates to the Republican convention to support Mr. Morrison for governor. The testimony on this point was heresay and rumor. Mr. French, present Republican Congressman from Idaho, was in that convention and knew the facts, and states that the delegates were not so instructed.

Elias A. Smith, who lives in Utah, testified for the respondent, and in volume 2, page 841, states that the Mormon Church and Joseph F. Smith do not own a control in any of the sugar factories in Idaho. It further appears that while the Democrats in Idaho in 1904 made Mormonism and the Mormon Church the paramount issue, yet that the State elected the Republican ticket by the largest majority in its history.

Mr. Cobb stated, volume 1, pages 764, 769, that the Mormon Church could get whatever it wanted from either of the political parties in Idaho. Notwithstanding this it appears that the Mormons have only had one State officer in Idaho in the last fourteen years.

The principal complaint of the witnesses for the protestants was that they claimed the Mormon people supported the Republican ticket in 1904 in large numbers.

We now refer to the witnesses produced by the respondent, who testified on political affairs in Idaho.

William J. McConnell testified, and his testimony is contained in volume 2, and commences on pages 491, 522, and 794. He is a Gentile, a Republican, has been twice governor of Idaho and once a United States Senator from Idaho. He has traveled considerably among the Mormon people and knows them very well (p. 494). He states that Mr. Morrison was not defeated for renomination by the Mormon people, and that Mr. Morrison would have lost the renomination even if all the votes from the Mormon counties had been thrown out (p. 496). That Senator Dubois called all the Mormons criminals (p. 499, 503). Mr. McConnell made an abstract which showed the result in the non-Mormon counties and in the Mormon counties for the last two elections—that would be, the elections of 1902 and 1904. This appears on page 504, to wit:

“Between 1900 and 1902 the increase in the Republican vote in the six Mormon counties was 21.2 per cent. During the same time the increase in the anti-Mormon or non-Mormon counties was 20.3 per cent.

“Between the years 1902 and 1904 at the election in the southern counties the increase in the Republican vote in the Mormon counties was 39.8 per cent and in the non-Mormon counties it was 31.8.”

The three witnesses for the protestants on this subject commented adversely on the fact that Mr. Gooding ran ahead of his ticket in the southern part of Idaho, while he fell behind in the northern part. Mr. McConnell explains this by showing that Mr. Gooding is engaged in the sheep industry, which is customary in the southern part of Idaho. The central and northern part of Idaho is more used for the cattle industry, and as there is antagonism between the two industries, Mr. Gooding ran ahead in the south and behind in the north (pp. 496-497, 500).

There are many more Gentiles in the six Mormon counties than there are Mormons in the Gentile counties (p. 504). It was desirable to amend the constitution of Idaho because the people the people would like the powers of the State land board increased, and also because the consti-

tution had been amended so many times (p. 505). Mr. McConnell then quoted from a speech of Senator Dubois to the effect that the Mormon Church is not controlling politics in either Idaho or Utah, and that such issue is forever at an end (pp. 506-507).

Mr. McConnell covers quite fully the whole political situation in Idaho, but we do not deem it necessary to state his testimony more fully.

The table showing the vote for Representative in Congress and governor, respectively, for the years 1902 and 1904, is found in volume 2, pages 534, 535, 536, and bears out the figures above given.

Burton Lee French testified for the respondent on political affairs in Idaho. Mr. French is a Gentile and a Republican. This is his second term in Congress.

His testimony is found in volume 2, and commences on page 536. He states that there is no unwritten law or custom that a man shall be twice nominated for governor (pp. 537-538). He states that the Mormon Church did not defeat Mr. Morrison for renomination for governor; that there were 285 members of the Republican State convention in 1904, and 43 of these were Mormons. Mr. Morrison received 90 votes. Mr. Gooding received 195 votes. The number required to nominate was 143 (p. 538).

It is evident that if the 43 Mormon votes had been taken from the 195 votes Mr. Morrison would have had 152 votes, or nine more than necessary to nominate.

The delegates from Latah County were not instructed to vote for Mr. Morrison as governor (p. 538). The statement of Mr. Jackson to the contrary is absolutely false (p. 538). Mr. Jackson's statement is untrue that the Mormon Church defeated Mr. Morrison for renomination. In Idaho there were groups of political workers, and Mr. French and Mr. Morrison were opposed in the Republican convention. The result of the contest was that Mr. French was nominated for Representative to Congress, and Mr. Morrison won the nomination for governor in 1902 and lost in 1904. It was not necessary to the nomination of Mr. Gooding that he should receive Latah County's vote. It is not true that the Mormon Church interfered in politics in Idaho or that it can get what it desires (pp. 540-541). Many of the Democrats in Idaho believed that they could not carry the State in 1904 on national issues. The paramount issue of the Democratic party in Idaho in 1904 was Mormonism, and was made so, in the opinion of Republicans generally and of many Democrats, to further the personal ambition of those interested in the leadership of the Democratic party. The increase in the Republican vote in the Mormon counties was just about the same as the increase of the Republican vote in Gentile counties (pp. 541-542).

Mr. French figured the vote on Presidential electors, and found that in 1904 the Republican vote had increased in Mormon counties 66.07 per cent, and in Gentile counties had increased 80 per cent (p. 542).

Mr. French states that in 1904 the increase in Republican votes in Gentile counties over 1902 was 39.08 per cent. There was not 1 per cent difference between the gain in Gentile counties and Mormon counties, and that difference was slightly in favor of the Mormon counties. In comparing the figures of 1898 with 1900 there was a Republican increase for the candidate for Congress in the Mormon counties of 111 per cent, and in the Gentile counties of 103 per cent. In 1900 and 1902, on the same office, the Republicans gained in the

Mormon counties 20.3 per cent, and in the Gentile counties 20½ per cent.

Between 1902 and 1904 the Republican candidate for Congress gained 42½ per cent in the six Mormon counties, and gained 41.09 per cent in the Gentile counties. In other words, there was less than 1½ per cent difference in the gain. In taking the vote for governor in 1904, the Republicans made a gain over 1902 of 39.8 per cent in the Mormon counties. They made a gain in Gentile counties of 27½ per cent, and that gain was due to local conditions, and the general gain is comparatively the same in Mormon and non-Mormon counties. And it is generally believed by Republicans that there was no reason for making a campaign in 1904 on the Mormon question, and that it was simply brought in for political purposes (p. 543).

There are many more Gentiles in the Mormon counties than there are Mormons in the Gentile counties (p. 544). The vote of Idaho in 1904 was about 70,000, and the Mormon vote would be 14,000 or 15,000. The Mormon population in Idaho is estimated at about 40,000 to 45,000 (p. 544).

Referring to the general election in November, 1904, and to the charge that had been made that the Mormon Church favored the Republican ticket, Mr. French said:

"Mr. FRENCH. As I have shown on two offices here, the gain is within 1½ per cent the same in the Gentile counties as it is in the Mormon counties. The gain is within 1½ per cent on the office of Congressman. It is within 1 per cent on the office of school superintendent, which does not seem to be political" (p. 544).

There were reasons why Democratic Mormons in Idaho, in the general election of 1904, should support the Republican ticket. The Democrats of the State, with the exception of Senator Dubois, Mr. Jackson, Mr. Heitfeld, Mr. Clay, Mr. Payne, Mr. Flenner, and Mr. Donnelly, did not support the Democratic ticket. The most of the Democratic State leaders took little or no part in the campaign. This was because they did not approve of the policy of the Democratic party in injecting the Mormon question into the politics of the State. The Democratic newspapers generally declined to support the State Democratic ticket. Mr. Clay was Mr. French's opponent in the race for Congress.

He made charges that the Mormons were still practicing polygamy; also made charges reflecting on the personal honor of Mormons and stated that the houses of ill-fame in Salt Lake were filled with Mormon girls. He also stated that southern Idaho was the lambing ground for Utah—that is, the "breeding ground." He also stated that 75 per cent of the marriages in the Mormon Church were "forced marriages." It is generally believed that Mr. Clay made these statements for the purpose of throwing the Mormon votes into the Republican column for the purpose of aiding the Democrats in the campaign of 1906. It was generally understood that the campaign of 1904 was only preliminary to the campaign of 1906, which would involve the election of a United States Senator.

Senator Dubois was generally regarded as the aspirant for the Senatorial toga in 1906. The Democrats, by driving the Mormon Democrats into the Republican party, would gain, or hoped to gain, because it would show that the Mormons could be wheeled from one party to another, and if this should be apparent in the northern counties, the

Gentiles there would resent it and immediately vote in twice the numbers for the Democratic ticket. As a matter of fact, the statements did have some effect. There were some Republicans who did not support the Republican State ticket, but supported the Democratic ticket, because they actually believed some of those statements (pp. 544, 545, 546).

The resolution that passed the Idaho legislature that has been referred to, for the purpose of amending the State constitution, did not refer to polygamy. It was simply a general call for a constitutional convention. Before this resolution passed there had been an agitation in the State for a new constitution. There had already been five different amendments, and two others failed to pass, and there were numerous resolutions introduced for various amendments relating to different subjects. The conditions in the State had changed enormously in ten years, and there was much talk of adopting a constitution that would meet the requirements of the new State (p. 547). Only one Mormon has been a State officer since Idaho became a State (p. 548).

In answer to a question whether the Mormons voted according to their political convictions or are dictated to by the Mormon Church, Mr. French, on page 548, said:

"Based upon these figures, covering several years, it seems to me the Mormons vote the same as the Gentiles vote. The figures bear me out in that belief. If we have a Republican loss in Gentile counties, we have an approximately similar Republican loss in Mormon counties. If we have a Republican gain in Mormon counties, we have about the same Republican gain in Gentile counties. I have gone back as far as 1898 on the office of Congressman, and I would say that the candidate for Congress always is at the head of the ticket upon the official list when there are no Presidential electors, and, using that office, there has not been 10 per cent difference in any of the elections since 1898, and in two of those campaigns there has not been 14 per cent difference in the gain in Mormon counties over Gentile counties, and one of those differences was in favor of the Gentile counties instead of the Mormon counties. So I say I do not believe there is any good reason to come to the conclusion that they vote as a unit at the dictation of their church leaders."

The witness noticed in the legislature that the Mormons were divided upon questions just the same as other members (p. 549). There were good reasons why the Republicans should gain votes in the Mormon counties. The first was the virulent charges that were made upon the rostrum by the so-called Democratic party in 1904. In the next place, Mr. Gooding lives in the southern part of the State. He is a business man and has large interests there. On the other hand, Mr. Heitfeld lives in the northern part of the State, and naturally he would receive votes as personal compliments from his friends there. Mr. Gooding's vote would also be increased in the south on account of the conflict between the sheep and cattle interests (p. 551).

F. H. Holzheimer testified for the respondent. His testimony is found in volume 2, commencing at page 565. He is a Democrat and a Gentile.

Witness was a member of the Democratic convention in 1904, and there was much discussion in regard to a clause in the platform providing for the punishment of polygamy. Witness states, in substance,

that if there had been a resolution introduced to punish adultery and polygamy in the first instance, that in his opinion the Mormons would have voted for it, but a resolution was introduced to punish polygamy, *omitting adultery and fornication*, and there is no law in Idaho punishing those offenses (pp. 572-573). The Democrats generally did not support the Democratic platform, providing for the punishment of polygamy. The opinion was general that that issue was introduced to subserve the personal ends of certain individuals. Nearly every prominent Gentile Democrat and every prominent Gentile paper in Idaho was opposed to the platform. The Democrats in Idaho at once dropped political affairs. With the exception of a few all refused to go upon the stump. Some said that if they went they would argue national politics, and they were informed that national politics was not wanted in the campaign of 1904. Some supposed that the Mormon plank in the Democratic platform would lead that party to political victory, and that Republicans and Democrats and independents would flock to Democracy. The contrary was true, however. The platform was universally condemned in Idaho, and the Democratic campaign met with no success, as that party was beaten by twice as many votes as ever before. A system of campaigning was conducted which was intended to drive all the Mormon people into the Republican party.

At a large political meeting in Pocatello, Senator Dubois advised the Mormon people to vote the Republican ticket, and it is a surprise that more of the Democratic Mormons did not do so. None of the old Democratic campaigners participated in the campaign. Most of them refused to speak, and of those who were willing, their style did not suit the Democratic State committee. The recognized leaders of Democracy refused to go upon the stump, because they were told that they would have to make the Mormon plank the paramount issue (pp. 573-574). There are about ten Gentiles in the six Mormon counties to one Mormon in the Gentile counties. There are about 650 Mormons in all the Gentile counties (p. 575). The witness in speaking of the Republican increase in Mormon counties as compared with Gentile counties, said on page 576:

"I would follow pretty closely the statement made here yesterday that the comparative increase in the northern Gentile counties—Republican—had kept pace with the Republican increase in the Mormon southern counties. In other words, when there has been a change of political sentiment it has not been confined to the Mormon people, but has been general throughout the State—more so because of the greater number of Gentiles in the State. The sentiment seems to have prevailed among all the people, not in particular factions or religious sects. This last year, 1904, it was in favor of the Mormon counties, and I attribute that to a great extent to the manner in which the campaign was waged by the Democratic party. It was a campaign of abuse and villification, classing them as men and women who were lawbreakers, even advising them, for their own good, to vote the Republican ticket. As I say, the wonder is the majority was not greater."

The witness found that Mormon young men are just as partisan in politics as the Gentiles, and gave instances (pp. 576-577).

The witness stated that no such remark was made in the Lewiston convention as testified to by one of the three witnesses for protestants, namely, "It has not yet been settled whether one wife or six are

Christianity." That the Mormon Church can not get anything it wants from the legislature or the people of Idaho. The Mormons are not in the majority in either house, or in voting (p. 578). The witness was nominated for Congressman on the Democratic ticket in the year 1904, and remained on the ticket for a short time under the belief that there would be a change in the platform. None was made, so he finally resigned from the ticket (p. 594).

Frank Martin testified for respondent. His testimony commenced volume 2, page 596. The witness is a Gentile and a Democrat, and has been active in Idaho politics. So far as the witness knows no State chairman ever goes to see the Mormon Church in Salt Lake (p. 598). The Mormon people in politics are the same as other people, and they are not influenced by the church any more than other people (p. 598). Mormons make up about one-fifth of the population of Idaho, and there are about ten Gentiles in the Mormon counties to one Mormon in the Gentile counties (p. 599). The Mormon Church does not interfere in Idaho politics so far as is observable (p. 599). The Mormon Church did not defeat the renomination of Mr. Morrison for governor (p. 600). In 1904, a resolution was introduced in the Democratic convention to punish polygamy. It is supposed to have been drawn by Senator Dubois.

There was no statute in Idaho punishing certain sexual crimes, and the clause in regard to polygamy appeared as an attack on the Mormon people. Mormon delegates to that convention were entirely willing to indorse the national Democratic platform; but this was not satisfactory to some of the other members, and a resolution was drawn against polygamy which did not include the other sexual crimes except unlawful cohabitation. The principal objection of the Mormons was the fear that they would be disfranchised in Idaho under the leadership of Senator Dubois, in order that he might gain a benefit politically; that is, if the Mormons were disfranchised certain counties might return men to the legislature who would be favorable to Senator Dubois's renomination as United States Senator in 1906. The Mormons declared that they were not opposed to the declaration against polygamy or unlawful cohabitation, but they were opposed to the movement because they feared that there was an intention behind that clause to disfranchise them. The same position was taken by many non-Mormons (pp. 600, 601, 602).

The platform against polygamy was adopted and the campaign begun. Witness supported the ticket but took no part in the campaign.

Charles H. Jackson was chairman of the Democratic State central committee and he wanted the witness to make speeches in the campaign. The witness was willing to do this but denounced the alleged paramount issue, namely, the Mormon question, as entirely a fake issue and false and selfish in its conception and unwarranted by the condition of affairs in the State, and was willing to make Democratic speeches, discuss the national issues, support the Presidential candidate, and was willing to discuss other State issues, but would not discuss the Mormon question. Witness was not requested to take part in the campaign and did not do so. Other leading Democrats in the State took the same position (pp. 603-604).

Charles H. Jackson, the State Democratic chairman, told Mr. Pence to discuss the Mormon issue, the sheep issue, the State treasury deposit law, and the temperance question. Mr. Pence reserved the

right to support Judge Parker for President and discuss national issues, but he would not discuss the Mormon question. State Chairman Jackson replied that he did not want the national issues discussed, but wanted all the time put practically upon the Mormon question. Mr. Pence was dropped. The same was true of others (p. 604).

The Democratic newspapers generally were opposed to the Democratic platform. Most of them expressed their opposition editorially. Witness heard a number of the speeches. Witness heard Senator Dubois, at Boise City. He discussed the Mormon question entirely, and did not refer to the Democratic candidate for President nor any of the national issues. Senator Dubois was particularly bitter in denunciation of the Mormons. The general trend of his speech was that the Mormons were violating the law, that they were criminals, that they were going secretly into polygamous marriages, that they were making corrupt deals and trades in the politics of the State (p. 605). It was reported that Mr. Clay made serious reflections on the girls and women of the Mormon people (p. 605).

There had been discussion in Idaho to amend the constitution previous to the passage of the resolution referred to. In nearly every legislature there had been from one to three amendments proposed to the constitution, and many thought, as the constitution needed so much amending, that there better be a constitutional convention. There had been discussion for years regarding amendments to the constitution (pp. 606-607). Governor Gooding is a Gentile (p. 607). It was a surprise that any of the Mormon Democrats voted the Democratic ticket. Some Mormon Democrats did support the Democratic ticket. In the campaign there was a disposition on the part of those managing the Democratic side to sacrifice the national ticket in the interest of the State ticket.

That was the opinion of the witness and of many old-line Democrats. They were of the opinion that the campaign was run the way it was for the especial purpose of getting votes for the Democratic nominee for governor at the expense of the Presidential candidate, Judge Parker. Senator Dubois, in opening the campaign, specially stated that the Mormon question was not a political issue; that people should come and support the Democratic State ticket regardless of party. So far as the witness knows, at no time was the election of Judge Parker advocated.

Mr. Stalker was a Republican and traveled with Senator Dubois, and they spoke from the same platform. Mr. Stalker stated that he was a Republican and had always voted the Republican ticket and should vote for President Roosevelt, and stated that the people of the State should vote for Mr. Heitfeld, the Democratic nominee for governor. A number of the old-line Democrats complained very bitterly, as well as the Democratic papers, "because this committee was apparently trying to sacrifice Judge Parker, our Presidential candidate, to try to get votes for their State ticket; and that was the general understanding among the Democrats with whom I (witness) associated and talked" (p. 610, 611).

A number of the leading Democratic papers in Idaho editorially condemned the Mormon issue as being uncalled for (pp. 616, 617, 618).

In the early days when Senator Dubois was a Republican he was the leader of the anti-Mormon fight. After the manifesto prohibiting polygamy, Senator Dubois advocated repealing the test oath, and pub-

licly expressed himself as believing that the Mormon question was settled, and that there was no church interference in politics. That was understood to be Senator Dubois's opinion until the fall of 1903, when he changed his opinion; but the majority of the people did not change theirs (p. 620).

J. H. Brady testified for the respondent. His testimony is found in volume 2, commencing on pages 623 and 786. The witness is a Gentile and was State chairman of the Republican party in Idaho in the campaign of 1904.

It is difficult to state the testimony of Mr. Brady without going into great detail. The witness states that there are about 600 Mormons in the Gentile counties and about 6,000 Gentiles in the Mormon counties; that there are only five counties in which the Mormons have a majority; that there were 72,000 votes in 1904, and of these about 13,000 or 14,000 are Mormon. Idaho went Republican because the people of Idaho generally believed in Republican principles, and also because the Democratic party made the antipolygamy plank the paramount issue. Senator Dubois spoke for the American party in Salt Lake, Utah, and the next night spoke for the Democratic party in Boise, Idaho. The latter speech was taken down in shorthand. It was soon apparent that it was not an antipolygamy fight, but simply an anti-Mormon fight, arraying one class of people against another.

The Republicans were advised to stick to national issues. The people generally in Idaho were satisfied with the conditions. The Mormon counties have drifted along with the other counties in politics. The Republicans asked the people whether Senator Dubois was justified in bringing in the Mormon question at this time, and the people of the State, regardless of whether they lived in Gentile counties or Mormon counties, gave their answer in a very decisive manner. The Gentile counties settled this question absolutely in Idaho this year. The Mormon counties gave a larger percentage to the Republican ticket than other counties, but they were absolutely driven to it (pp. 624-626).

The witness then said, on page 626, "Everything, in my judgment, that could be done was done by the Democratic leaders to throw away the Mormon vote and make it come to us." The witness was willing to take all the votes for the Republicans that he could get, and he did everything he could to inflame the Mormon people against Senator Dubois's methods, and stated that he was frank to say that he did not succeed as well as he anticipated, and that the Mormons certainly demonstrated their loyalty to their State and national ticket (pp. 626-627).

The witness stated that the Republicans discovered that it was not the intention of Senator Dubois and his friends to support Judge Parker for President; that it was their intention to give the people to understand that they were going to vote for Mr. Roosevelt and Mr. Heitfeld. The speeches of Senator Dubois were taken down in shorthand and read over by the witness, and never except on one occasion, and that casually, was the national ticket mentioned.

The Republicans discovered that the theory of these gentlemen was to vote for Heitfeld and for Roosevelt. "Heitfeld and Roosevelt" was the cry, and these Democrats carried it along that line (p. 627).

The hardest task in the campaign was to make the Democratic Mormons believe that Senator Dubois would say the things about them that he was saying, or that he would permit a man to stand on the

platform and say the things about them that were being said. Democratic Mormons told the witness that they did not believe it, and thought it was a Republican trick. The witness convinced the Mormons by having the speeches of Senator Dubois and Mr. Stalker taken down in shorthand and then printed and circulated. Ten thousand copies of Mr. Dubois's letter, in which he called the Mormons criminals, were printed and circulated among the Mormon people. A photographic copy of this letter was taken. It is the letter referred to by Mr. McConnell (pp. 627, 628, 629).

Mr. Stalker charged in his speeches that children in the southeastern counties had been tied to a whipping post and beaten into insensibility. The witness knew that this was absolutely false. These statements inflamed the Gentiles as well as the Mormons, for the reason that the Gentiles thought it was a reflection on them that anything of the kind was permitted to exist (p. 629).

Then follows a speech of Senator Dubois (p. 629).

Then a speech of Mr. Stalker (p. 635).

There was great difficulty in getting the Mormon people to believe what was being said. Senator Dubois was going to speak at Blackfoot and Pocatello on certain evenings, and the witness arranged to have as many Mormons hear what was said as possible.

The witness arranged to have at least 250 Mormon Democrats at each of the meetings, and of course after that they had to believe what was said (pp. 641-642). Judge Parker was actually traded for the Democratic nominee for governor in Idaho, and the witness gave his reasons. Witness further states that Judge Parker was sacrificed on every occasion where a vote could be obtained for the Democratic nominee for governor (p. 642). Senator Dubois stated to the witness that he did not want the Mormon vote in the southeastern counties; that the larger majority the Republicans got in those counties the better he would be pleased, as it would demonstrate the position he took (p. 642).

Idaho County is a Gentile county. There are not over half a dozen Mormon families in it. That county had always been Democratic. It was settled in early days by southerners who were in the Confederate army, and who had been steadfast Democrats ever since the State was organized. There were at least 1,000 Catholics in that county. The witness sent men into that county to present the conditions to the people, and the result was that Idaho County went Republican by a handsome majority. It went Republican because the Democratic party did not present any national issues, but simply tried to set one class of people against another, and the Democratic party of Idaho County resented this (pp. 642-643).

The witness then referred to an editorial in a Democratic Gentile paper, entitled "Kill it now;" which should be read on this subject (vol. 2, pp. 643-644, et seq.).

Mr. Gooding could have been elected governor on the Republican ticket without any of the Republican votes in the Mormon counties; and Mr. Gooding came closer to Mr. Roosevelt's vote than did any of the adjoining States (p. 647). There are only about 56 polygamists in the State of Idaho (p. 647).

The witness has observed that votes are lost by having prominent Republican officials in the Mormon Church speak in Idaho, and for that reason avoided it (p. 648). The Mormon people average up with

the Gentiles in being constant to their party lines. The Mormon people drift along in their votes the same as other parts of the State (p. 648).

The Democratic party did not want Democratic Mormon votes in 1904, and the course of the Democratic party was the cause of the Republican increase in those counties (pp. 648-649).

The witness did not go to Salt Lake to consult the Mormon Church. The Mormon Church does not get what it wants in Idaho. There has been but one Mormon who has been a State officer in Idaho in fourteen years. Mormon people in Idaho can not get what they want in the State, and can neither control nor dictate political affairs. That kind of talk is simply bosh. There are no conditions that exist that would permit them to do it. It is just the same in Idaho as in Kansas and Nebraska. The Mormon Church had absolutely nothing to do with Mr. Morrison being defeated for a second nomination as governor (p. 649).

On pages 655-656 Mr. Brady said:

"In the way of explanation here, I want to say something about these young Mormons in Idaho. You people here in the East do not understand our conditions. We have there a population of 225,000 people. Let us say that we have 56 polygamists, who married their wives before the manifesto. Now, out of the 40,000 Mormons that we have, 56 is a very small number. You must remember that there are a great many children who are not polygamous children, whose parents before them were not polygamists for any generation, and they say to these other people that they do not propose to stand for this thing. They propose, just exactly as Senator Dubois says, to wipe this out themselves. If they come East and register at a hotel, and it is found out they are from Idaho or Utah, and they are Mormons, the first thought that enters anybody's head is polygamy. You must understand that we have got homes out there, and that they are pure, outside of this blot that we might say was on years ago; and it is generally understood that those people are doing the best they can, and that these young people are just as much opposed to polygamy as you or I or anybody else.

"It is due to those young people out there to say that."

The witness then explained that the Republican legislature of 1905 would pass a law punishing polygamy so as to give Senator Dubois and other men an opportunity to prosecute polygamists if they so desired, but predicted it would not be done (pp. 786, 787, 788, 789).

On page 789 the witness said:

"While I will not prosecute any of those old Mormons, I will not lay a straw in the way of Senator Dubois or anybody else who wants to prosecute them under the laws that will be strict enough to convict any man on the ordinary evidence. We know that there are polygamist families in Idaho—a small number of them.

"Aside from this question of their polygamous relations, nobody questions their honesty or their integrity. These old men have their families living around them, and they may go over and see their children. They may stay until night. They may put the children to bed, and the old couple may sit there before the fireplace and talk. Charles Mostyn Owen may sneak up to the house and peep in the window to see what those old people are doing. I will not do it. Senator Dubois

will not do it, I say, and I do not know of any good business man in Idaho who will do it."

The witness, in speaking of the failure of the Democrats to pass any legislation in Idaho against polygamy, and of the intention of the Republicans to do so, said, on page 793:

"We took the position that the injection of this question into the politics of Idaho in the last campaign was absolutely uncalled for; that the Democratic party had absolute control of the government from 1896 on to 1902, from governor down to constable; that if they believed at that time that those conditions existed they had every chance to pass and enforce these laws; that instead of passing the laws and enforcing them they waited until they were out of power and then passed the resolutions. We said to the people, 'Instead of passing resolutions we will pass laws.'"

Charles H. Jackson, one of the witnesses for the protestants, and State chairman of the Democratic committee in Idaho, took a leading part, as appears from the testimony of the witnesses, in attempting to drive the Democratic Mormons from the Democratic party and in sacrificing Judge Parker in order to gain votes for the Democratic nominee for governor.

The witnesses for the respondent spoke almost entirely from actual knowledge, as distinguished from the hearsay and common rumors given by the witnesses for the protestants in regard to the alleged interference of the Mormon Church in Idaho politics.

Without making a summary, it is apparent that if the three witnesses for the protestants had spoken from actual knowledge they would be entirely overcome, taking into consideration the preponderance of the testimony. When it is remembered that the witnesses for the protestants spoke from hearsay, and the witnesses for the respondent almost entirely from actual knowledge, nothing remains to be said in the way of summarizing the results. It is not a question of the Mormons holding the balance of power, because the State is too overwhelmingly Republican for that to be an element. It will also be noticed as to the character and standing of the men who testified for the respondent. No impartial person can read the testimony of Charles H. Jackson without knowing that in large part it is either intentionally false or else that the witness was so biased and prejudiced that it was an impossibility for him to state facts accurately.

None of the witnesses for the respondent had ever been connected with the Mormon Church in any way, and their opinions are given as disinterested citizens of Idaho. It is apparent that the people of Idaho, as well as its press, were strongly opposed to the position taken by the Democratic party in that State. It is evident that when Senator Dubois and a Republican were speaking from the same platform, and were disregarding national Democratic issues, that a genuine Democratic campaign was not being waged. It was Democratic in name, not in substance, and the result was, as expressly stated by the witnesses, that Judge Parker was sacrificed at every turn in order to give votes to the Democratic nominee for governor.

Inflammatory charges were made against the Mormon people for the purpose of driving them out of the Democratic ranks and into the Republican, so that it could be claimed to the people of Idaho that this was because of Mormon Church dictation. The Gentiles of Idaho,

as well as the Gentile press, resented such practices, and the result was that the Republicans had the largest majority in the history of the State.

It is plain that some of the Democratic leaders were attempting by every means in their power to drive the Mormons in a body from the Democratic party. This was done by charging that they were criminals, that southeastern Idaho was the "lambing ground" of the Mormon Church, that 75 per cent of the Mormon marriages were forced, that children were tied to whipping posts and beaten into insensibility, and that houses of ill-fame in Salt Lake were filled with Mormon girls. All these charges naturally tended to the result desired, but it failed of accomplishment.

Further proof of this intention of some of the Democratic leaders is made plain when it is remembered that Democratic leaders were called in from the campaign when they undertook to discuss national issues. Men were not allowed to go upon the Democratic platform and make speeches unless they would pledge themselves to discuss the Mormon question and ignore national politics and the Democratic Presidential candidate. The result of all this was that the Democratic leaders generally stayed at home and took no interest in the campaign. The overwhelming majority of the Gentile Democratic papers refused to enter into the campaign, and, as a climax, Idaho County was carried by the Republicans, which had never occurred before.

The witnesses state in so many words that it was the intention of Senator Dubois to array the Gentiles on one side against the Mormons on the other, hoping that he could become the leader of a Gentile party and so come back to the United States Senate in 1906.

After all the rumors and gossip testified to by protestants' three witnesses, the foregoing are the results!

The CHAIRMAN. Mr. Van Cott, I think we will have to ask you to suspend at this point, as it is pretty near the hour for the meeting of the Senate.

The committee will take a recess until 2 o'clock.

Thereupon (at 11 o'clock and 55 minutes a. m.) the committee took a recess until 2 o'clock p. m.

AFTER RECESS.

The committee reassembled at the expiration of the recess.

ARGUMENT OF WALDEMAR VAN COTT—Resumed.

The CHAIRMAN. Mr. Van Cott, you may proceed.

Mr. VAN COTT. Let us take the alleged interference of the Mormon Church in Utah politics:

Three witnesses testified for the protestants on this subject—E. B. Critchlow, a Gentile Republican; O. W. Powers, a Gentile Democrat; and Ogden Hiles, a Gentile Democrat.

Nearly all the testimony given on the above subject consists of hearsay, gossip, and rumors. We will take the principal heads or contentions of the protestants in regard to the alleged interference in politics, and then will make a condensed statement of the substance of the testimony given by the witnesses on different points.

RECONVENED CONVENTION.

As before mentioned, the people in Utah divided on national party lines in about 1891. There was an election on the adoption of the proposed constitution for the State of Utah as well as for the election of State officers. The vote to adopt the constitution was favorable and the Republican ticket was elected, and Utah became a State January 4, 1896.

During the political campaign in the fall of 1895 it was charged, principally by Democratic politicians and Democratic newspapers, that some members of the Mormon Church were endeavoring to influence the Mormon voters in Utah in favor of the Republican party. These charges continued, until finally the Democrats reconvened their State convention, meeting October 22, 1895 (vol. 1, p. 819).

O. W. Powers was the principal witness on this point. It was not charged that the Mormon Church was dictating in politics or influencing its members one way or the other, but there was going around what are called in this record "whisperings." That is, some man or men would give it out that the Mormon Church desired the people to vote in a certain way. When these rumors were traced down, it was found that there was no foundation or authority for the statement made, but the entire responsibility was that of the speaker. The remarks were simply false. Certain letters were written which gave strong support to the contention of the Democrats that certain individuals were exercising an improper influence. All of this culminated in reconvening the Democratic State convention.

In going over the proceedings of the reconvened convention it should be remembered that the overwhelming majority were Mormons. O. W. Powers, a witness for the protestants, was in that convention and made a speech. In volume 1, page 817, is the commencement of the proceedings of that convention. On page 818 is the call for the convention, and particular attention is invited to this call where it is stated that the convention is reconvened because "of designing and unscrupulous Republicans, who have used and distorted the ill-advised statements of high church officials in order to secure their own designing ends."

On the same page it is stated that the Democratic party "has no quarrel with any church. It admits the right of every society to govern and control its members in its own affairs, so long as the rights of the State or the rights of other individuals are not encroached upon. Its grievance has been caused by those who are ready and willing to drag the cross of Christ in the mud and dust and filth of politics to advance selfish ends. It matters not whether this was occasioned by innocent motives or innocent action."

After going over the whole situation, it is said, in volume 1, page 823:

"Thus the people of Utah and of the United States were given to understand that there would be no interference by ecclesiastical authority with any political organization, and that the spiritual views of no man would be used to induce him to adhere to, espouse, or disagree with any political party.

"This position of the church has never been *receded from*. As an organization it stands to-day where it did upon the occasion of the division upon party lines, pledged not only to restrain itself, but to

prevent so far as it can the interference with the political rights of the humblest individual by those in ecclesiastical positions." (The italics are ours.)

O. W. Powers, the principal witness for the protestants, on this point, delivered a speech, which commences on page 834, volume 1. In no place did he charge that the church was in any way censurable for what had been done. The only charge was against individuals. On cross-examination O. W. Powers further emphasized the point that the church was not censurable in the matter.

In volume 1, page 907-8, the following occurred:

"Mr. VAN COTT. In 1895, when that reconvened convention was called, in the call you did not lay it to the church, did you, on account of the influence that had been used?

"Mr. POWERS. No; it was thought best by the committee that I should frame that, as I stated, in diplomatic language, so as not to—we did not know how far our people would go with us. That is the truth of it.

"Mr. VAN COTT. You do not mean to say you sacrificed the truth for diplomacy, do you?

"Mr. POWERS. I do not understand that you have to sacrifice the truth in order to be diplomatic.

"Mr. VAN COTT. Well, you did not, did you?

"Mr. POWERS. No; I think not.

"Mr. VAN COTT. In that call that you read yesterday it is laid to the efforts of unscrupulous Republicans to distort the ill-advised statements of some of the high church officials.

"Mr. POWERS. Yes; and that was being done. That was done at Brigham City; it was done at Logan; it was done at Moroni; it was done at Manti; it was done at Richfield; it was done at other places.

"Mr. VAN COTT. You spoke recently—

"Mr. POWERS. I was going to say I could refer you to a letter from Brigham City which was written to Mr. Roberts, and by him turned over to me, that showed that the language that had been used was distorted for political purposes.

"Mr. VAN COTT. You spoke at a Jefferson day banquet recently in Utah, did you not?

"Mr. POWERS. I did.

"Mr. VAN COTT. And at that banquet did you not lay the present condition of affairs to the Republican party and not to the church?

"Mr. POWERS. I inquired of the people who was responsible for the position in which Utah found herself at the present time, with the finger of all the other States in the Union being pointed toward her. I said to them, in substance, that we of the Democratic party had run up against Congress once, and that we had warned the people that if they voted the Republican legislative ticket it meant the election of Mr. Smoot to the Senate and meant trouble for the State. That is what I said to them."

In the proceedings of the reconvened convention there was quoted the written repudiation of the first presidency of the Mormon Church of either interfering in the political affairs of the State or of intending to do so, and condemning in strong terms those who had attributed any such intention to them. (See vol. 1, pp. 825-826.)

In the same convention (vol. 1, p. 826) is a statement to the effect that despite the authoritative declaration of the first presidency, certain

persons had gone through Utah and given improper advice and counsel in political matters, and, after certain declarations of truths, on page 833 it is declared:

"We therefore, in the most solemn manner, say that we will not be so dictated to, interfered with, or hindered in our political duties by those selected to minister to us the consolations of the gospel." (Vol. I, pp. 833-834.)

On page 835 it appears that C. W. Penrose was called upon for an invocation, and that he prayed, among other things, for the preservation of religious liberty. C. W. Penrose afterwards became and now is an apostle in the Mormon Church.

On page 837, O. W. Powers said in part in his speech:

"* * * I would prefer to march with you to an overwhelming defeat than to enjoy victory gained by such means as the Republican party are using to-day in order to defeat Democracy."

Mr. Powers, on page 835, also said on this particular point:

"* * * for they who *laughed* will be buried beneath the avalanche of votes." (The italics are ours.)

The above quotations plainly show that everyone did not believe as the Democrats did in regard to the motive of calling the reconvened convention. The whole proceedings conclusively demonstrate that no charge was made or was intended to be made against the Mormon Church. The Democratic party was merely seeking to put a stop to the improper "whisperings" of certain persons in that church, and the convention quoted in full the repudiation and statement of the first presidency on that subject. It must be borne in mind that the great majority of that convention was made up of Mormons.

Attention is now further called to the examination of Judge Powers, in volume 1, commencing with page 896, to wit:

In 1885 the people in Utah were practically without any experience in politics. They had had no experience in framing platforms or of having defined issues and standing by them, nor any conception of the issues dividing the great national parties, and, in fact, they took very little interest in them. Brigham Young was president and leader of the church, and was twice appointed governor of the Territory of Utah by the Government, serving eight years, so that the people practically had before them the union of church and state. From 1885 to 1892 there was an improvement in political conditions. In 1892 there was a campaign to enlighten the people on political matters. Political platforms were framed and declarations of principles issued by the Republican and Democratic parties, and considerable political activity was maintained (p. 896).

The progress made is somewhat surprising as well as satisfactory. The people have progressed politically and socially. The bitterness between Mormons and Gentiles, which is hard to describe, has, in a measure, passed away. Some of the Mormon people have as fixed political convictions as any people, and the number is increasing. That was noticeable in the reconvened convention. The great mass of the Mormon people are honest and sincere (p. 897).

It was natural that a great majority of the Mormon people should first go into the Democratic party, as the National Government had been Republican and had passed most of the adverse legislation (p. 898).

In 1892, when the first election was held after division on party lines, Mr. Rawlins, a Democrat, had 15,201 votes, and Mr. Cannon, a Repub-

lican, 12,390. The Liberal or Gentile vote was 6,987. About 66 $\frac{2}{3}$ per cent of the Liberal vote was Republican, so that it would be expected that when the Liberal party dissolved the State would be Republican, except that Mr. Rawlins had done much for Utah and statehood, and it should be expected that the people would support him (p. 899).

In 1896 Utah went Democratic on the silver issue, and the same in 1898. In 1900 the silver question was practically out of politics in Utah. In 1900 the Republicans carried the State; also in 1902. In fact the Republicans have carried the State of Utah since the division on party lines, except in the exceptional years of 1896 and 1898. All the State officers, with the exception of Robert N. Baskin, have been Republicans (p. 900).

Mr. Powers then testified that the reconvened convention was ridiculed. In Volume I, page 926, the following appears:

"Mr. VAN COTT. During the campaign following the reconvened convention, state the attitude and conduct of the Gentile Republicans in either approving of or ridiculing and deriding the platform that was adopted at that reconvened convention throughout the State of Utah.

"Mr. POWERS. They disapproved of our reconvened convention, and they did ridicule our platform, and they declared we were making a grand-stand play.

"Senator BAILEY. They did not, however, ridicule the declaration?

"Mr. POWERS. Oh, no; they did not do that.

"Senator BAILEY. There was nobody in Utah who questioned their soundness?

"Mr. POWERS. Nobody ridiculed those that I recall.

"Mr. VAN COTT. But in regard to the charges you made, and things of that kind, they did ridicule that part of it?

"Mr. POWERS. Yes; they did.

"Mr. VAN COTT. The Gentile Republican paper did it also, did it not?

"Mr. POWERS. I understood that I was answering that."

It will be observed that neither the Republican party nor the Gentile Republican paper attributed any good motive to the calling of the reconvened convention. It was denounced as a "grand-stand play."

It will also be observed that there is not one whisper of criticism against the Mormon Church. There is no charge that it violated any of its covenants or that it had done anything improper. In fact, the very contrary appears. It is not likely that O. W. Powers at that time would have failed to denounce the church if he had been of the opinion that it had been improperly exercising any influence in the political affairs of Utah.

On the other hand, it is just as plain that some members of the Mormon Church had been "whispering," and those persons were criticised and denounced in vigorous language.

In other places in this record it appears that the Republicans belittled and derided the proceedings of the reconvened convention, and, in substance, said that it was called together for the purpose of arousing sympathy and getting votes.

What is especially significant is that the reconvened convention was held before Utah became a State. If there was any general opinion among Gentiles that the Mormon Church was improperly meddling in politics, then was the time to speak; and it is perfectly apparent that

if the Gentiles had so thought they would have spoken, as they have been vigorous in protecting all of their rights.

E. B. Critchlow was in the campaign of 1895, and if he had been of the opinion that the reconvened convention was called in good faith and to remedy an existing evil, then it would be expected that he and Judge Powers and many other Gentiles in Utah would unite to prevent Utah from coming into the Union. The fact that none of these persons made any objection or called the attention of the National Government to the same is proof that no one then seriously thought that the Mormon Church was doing anything improper.

The reconvened convention has slept from 1895 until Senator Smoot was elected United States Senator. Then the proceedings of that convention are dug out of the grave and brought before the United States Senate and exhibited as a reason why Senator Smoot should be ousted. What was then alleged by many Gentiles to be a ridiculous and silly performance to catch votes has now become a political bible on which rests the alleged right to unseat Senator Smoot. A few politicians, to subserve their own selfish purposes, are now attempting to use the reconvened convention as announcing some sacred principle, when it is certain that that convention was only reconvened to denounce certain individuals. The testimony of the great number of Gentiles who have testified in this case for the respondent shows this very clearly, as they testified in substance that the Mormon voters have been independent and constant to party lines.

Senator BAILEY. Do I understand you to say that the declarations of principles adopted by the reconvened convention were objectionable?

Mr. VAN COTT. Not by any means. It is not my intention to denounce the principles or sentiments declared.

Senator BAILEY. The object may or may not have been a creditable one—

Mr. VAN COTT. That is true.

Senator BAILEY. But the deliverances, in my judgment, were sound.

Mr. VAN COTT. I agree with you, Senator Bailey. I agree with all of the sentiments as expressed in that declaration; but the overwhelming number of Republicans and many Democrats did not agree with the purpose or motive which reconvened that convention.

Senator BEVERIDGE. Then, you think in this case it was the motive that was dug up from the grave, as you have said, and not the deliverances?

Mr. VAN COTT. Yes, sir; that is it, exactly.

It is difficult to understand, logically or reasonably, why that reconvened convention has anything to do with whether or not Senator Smoot shall retain his seat. Whatever occurred was before Utah became a State, and stands on the same footing as many other things that occurred before that time.

There is as much reason for unseating Senator Smoot on account of that convention as there is for what Brigham Young may have done in issuing a proclamation against United States troops coming into Utah while he was the governor. Certain it is that no new fact is shown since Utah became a State. Everything took place before that time and was well known to all the people and to the Government.

The Mormon Church issued what is called in this record the "political rule." The object of this was, in substance, to forbid certain high church officials from going into politics or any other occupation without first getting a leave of absence. This document was reduced to writing for the first time in April, 1896. It is found in Volume I, page 168 et seq. On page 168 it is stated that the doctrine embodied therein "has always prevailed in the church." This document was signed by a number of the leading officials of the Mormon Church, and the first name is that of Wilford Woodruff, the then president of the church. All the witnesses give credit to Wilford Woodruff for being truthful and conscientious, and yet he states that the rule had always prevailed in the church.

On page 169, it is said:

"In the first place we wish to state in the most positive and emphatic language that at no time has there ever been any attempt or even desire on the part of the leading authorities referred to to have the church in any manner encroach upon the rights of the state, or to unite in any degree the functions of the one with those of the other."

Again, on the same page, it is said:

"On behalf of the church, of which we are leading officers, we desire again to state to the members and also to the public generally that there has not been nor is there the remotest desire on our part or on the part of our coreligionists to do anything looking to a union of church and state."

On page 170 it is said:

"We have maintained that in the case of men who hold high position in the church, whose duties are well defined, and whose ecclesiastical labors are understood to be continuous and necessary, it would be an improper thing to accept political office or enter into any vocation that would distract or remove them from the religious duties resting upon them, without first consulting and obtaining the approval of their associates and those who preside over them. It has been understood from the very beginning of the church that no officer whose duties are of the character referred to has the right to engage in any pursuit, political or otherwise, that will divide his time and remove his attention from the calling already accepted."

On page 171 it is said:

"Our position is that a man, having accepted the honors and obligations of ecclesiastical office in the church, can not properly of his own volition make these honors subordinate to, or even coordinate with, new ones of an entirely different character. We hold that unless he is willing to consult with and obtain the consent of his fellow-laborers and presiding officers in the priesthood he should be released from all obligations associated with the latter before accepting any new position."

This rule of the church is practically indorsed by the reconvened convention. In Volume I, page 818, it is said:

"It admits the right of every society to govern and control its members in its own affairs, so long as the rights of the State or the rights of other individuals are not encroached upon."

The sense of this political rule is that in no way is the consent an indorsement for the particular office for which one may run. It is a

mere leave of absence; it is a permission that the particular person may retain his position in the church without discharging the duties thereof for a certain period of time while employed in another occupation; for instance, politics, or business, or traveling for pleasure, or any other thing that may take him away from those duties which in their nature are continuous.

Some of the three witnesses for the protestants on this question claim that the rule was passed principally for the reason that Moses Thatcher sought to be nominated as United States Senator without obtaining this "consent." Moses Thatcher testified that a person, as a free American citizen, had a perfect right to retire from his official calling and remain free; and Mr. Thatcher further said:

"* * * and if an issue came, I would hold that every man who loved his country would resign." (Vol. 1, p. 1040.)

On the same page, Mr. Thatcher stated that a person could either run for office or could resign from his official position in the church.

Mr. Thatcher stated that the political rule had no other effect than a mere leave of absence, and that it was not an indorsement (p. 1040).

It is also understood in Utah that the consent that is given under the political rule is a mere leave of absence and not an indorsement. J. W. N. Whitecotton, a Gentile Democrat, so testified (vol. 2, p. 683).

Several other witnesses testified to the same effect, but it is deemed unnecessary to cite their testimony.

If a person was engaged as a clerk or as an employee in a corporation or by a partnership, where his duties were continuous and practically exclusive, it would never be thought for a moment to be improper to forbid, on pain of dismissal from service, such person from going into other business which would interfere with the proper discharge of his duty.

As a matter of practice, it is well known that employees of corporations and business houses are generally forbidden to engage in other business. There is a variety of reasons for this. In many places in the United States female school teachers are not allowed to retain their positions after marrying. The encouragement of marriage and marriage itself are of the highest public policy; yet female teachers know that they will be dismissed from service if they marry.

A short time ago the Corn Exchange Bank of Chicago issued a rule prohibiting any of its employees marrying unless he had an income of at least \$1,000 per annum.

William M. McCarty testified for the respondent. He is a Gentile Republican; has never been identified with the Mormon Church; has occupied several official positions in Utah, and is at present one of the justices of the supreme court of the State.

His testimony on this particular point is in Vol. II, pages 893-894. He states, in substance, that when the political rule was first announced the Gentile Republicans were in favor of it, but some objections were made by the Democrats, and that later on some of the Gentile papers attacked the "rule" which they had previously approved. The Democrats claimed that the political rule was aimed at their party. The Republicans generally insisted that the "political rule" was a good one.

J. W. N. Whitecotton, a Gentile Democrat, testified for the respondent on this point (see Vol. II, p. 685):

"Mr. VAN COTT. Calling your attention now to the political rule that has been referred to, I will ask you if when the rule was first pro-

mulgated in writing by the Mormon Church it received the hearty indorsement of the Gentile papers of Utah?

"Mr. WHITECOTTON. Yes; when Moses Thatcher seems to have misunderstood the intent of the church and went out with a new declaration of independence, as it were, the Salt Lake Tribune, which was the chief Republican paper in the State, condemned Thatcher and contended that the church had a perfect right to control its employees; that they were hired men, and that they had a right to object to a man in their employ going off and engaging in other collateral employment that took him away from their work."

Many others testified to the same effect, but we deem it unnecessary to cite their testimony.

There is nothing in the record that contradicts this attitude of the Gentiles and of the Gentile papers in Utah at the time when the rule was promulgated. It appears that when the rule was first issued by the Mormon Church it received the hearty indorsement of the Gentile papers. The Republican papers approved it and argued for it, and now some few Gentiles are appealing to that same rule as a reason why Senator Smoot should be ousted from his seat in the Senate.

Justice McCarty testified (see Vol. II, pp. 891-892) to the effect that it was desired that a Mr. Miller should run on the Republican ticket for the constitutional convention. Mr. Miller was a Methodist preacher in Monroe, Utah, and was a good campaigner. Mr. Miller was elected. Before he was nominated, however, he said it would be necessary for him to communicate with Doctor Iliff, who had charge of the Methodist mission in Utah, as "it was necessary to get his consent." Later, Mr. Miller stated that he had the "consent" of Doctor Iliff to run on the ticket.

The Gentiles made no objection because Mr. Miller was compelled to get consent. It was but reasonable that he should get consent when it meant, if he was elected, that he would leave his official duties in the church and devote his time to the constitutional convention. It is entirely reasonable that those members of the Mormon Church, whose duties are practically continuous and exclusive, should not enter into other occupations without either resigning their church position or getting a leave of absence, and this right is optional.

MOSES THATCHER.

Considerable has been said in this record about the campaign of Moses Thatcher to become United States Senator. It has already been stated that a general election was held in the fall of 1895, both to adopt the constitution of Utah and also to elect general State officers who would enter on the performance of their duties as soon as Utah became a State.

Utah went Republican in 1895. The silver issue had gained great strength in Utah by the summer and fall of 1896; another general election was held in that fall, and the Democrats were successful. There were two prominent candidates for the United States Senate, Joseph L. Rawlins, a Gentile Democrat, and Moses Thatcher, a Mormon Democrat.

In substance it is claimed by some of the witnesses for the protestants that Moses Thatcher was defeated by the Mormon Church. There is much evidence in the record to the contrary. Special prominence

has been given by the protestants to the defeat of Moses Thatcher as showing an interference by the Mormon Church in political affairs.

It is necessary to trace this matter through for the purpose of understanding its exact status.

The record shows that Moses Thatcher is honest, independent, intellectual, patriotic, well-informed, and experienced in public affairs, and in particular that he is unyielding in his determination to be entirely independent in all political affairs. At the time Moses Thatcher was a candidate for the United States Senate he was a polygamist and probably living in unlawful cohabitation (vol. 1, pp. 673-674). Mr. Thatcher went into the campaign without obtaining the leave of absence that is mentioned in the political rule, though that rule was theretofore promulgated in writing.

It will be observed that the political rule was issued April 6, 1896, and the members of the legislature that voted on Messrs. Thatcher and Rawlins were elected in November, 1896, and met in January, 1897.

In volume 1, page 556, E. B. Critchlow states that Moses Thatcher's name was dropped from the quorum of apostles at the spring conference of 1896; that his name was not put up to be sustained, although he would remain a member of the quorum until superseded. The same was true at the fall conference in 1896, and it was not until later that Mr. Thatcher was finally dropped from the quorum.

It will thus be seen that Mr. Thatcher, though an apostle, did not get the "consent" that was provided by the political rule; he entered upon the active campaign for the position of United States Senator, and was in direct antagonism with the "rule" of his church.

Mr. Thatcher in substance claimed that it was the political enslavement of the Mormon people to get consent, while on the other side it was claimed, not only by many Mormon people, but also by the principal Gentile papers and by the Gentile Republicans, that it was entirely proper that the Mormon Church should make rules for the guidance of those officials whose duties were practically continuous and exclusive.

The fight was waged, and finally Joseph L. Rawlins was elected United States Senator. It was necessary to have 32 votes to elect, and Mr. Rawlins received just that number.

E. W. Wilson is one of the protestants, as appears in volume 1, page 26. Mr. Wilson is a Gentile Democrat.

He voted for Mr. Rawlins as United States Senator. Without his vote Mr. Rawlins could not have been elected. In substance Mr. Wilson protests that Moses Thatcher was defeated because of the influence of the Mormon Church. He seems to forget that some Mormons may have felt just like himself, namely, that Mr. Rawlins was preferable under all the circumstances. If a great political principle was at stake it would be supposed that Mr. Wilson, a Gentile Democrat, would have supported Mr. Thatcher. While Mr. Wilson supported Mr. Rawlins he in effect criticises others for doing the same thing.

In volume 1, page 566, is the complaint against Moses Thatcher. It is dated July 30, 1897, and is signed by three of the apostles. We quote the charge:

"DEAR BRETHREN: We hereby prefer a charge against Brother Moses Thatcher of apostacy and un-Christianlike conduct, exhibited

in public speeches, private conversations, in interviews through newspapers, and in other ways, showing a departure from the spirit of the gospel and the doctrine and discipline of the Church of Jesus Christ of Latter-day Saints, such as to forfeit his right to fellowship and standing in the church."

On the same page it is said that Moses Thatcher exhibited an apostate spirit and was un-Christianlike in his conduct in certain particulars.

The first, in substance, is an interview in the Salt Lake Tribune, wherein he charged the authorities of the church with bad faith in declaring, first, that they would not interfere in politics, and, next, that they intended to and would interfere.

In the next place, Moses Thatcher was charged with giving to the public private correspondence which related to church matters.

Then followed a number of charges against Moses Thatcher that are found on pages 566-567.

Elias A. Smith testified, as appears in volume 2, page 843, to the effect that he is personally acquainted with Moses Thatcher, has known him twenty-five years intimately, and that the differences between him and the church were not on account of his being a candidate for the United States Senate, but pertained to religious matters, and Mr. Smith stated he was personally cognizant of those things.

Moses Thatcher was tried by the high council, and the decision is in volume 1, pages 570-572. On page 572 Moses Thatcher accepted the decision, and then follows a letter from him to the stake presidency, dated August 13, 1897. The substance of this letter is that the political rule does not trench upon individual liberty or personal political freedom; and the letter shows that Moses Thatcher was of the opinion in the first instance that the political rule meant one thing, when, as a matter of fact, it was decided that it meant another, and when Mr. Thatcher was convinced of such latter meaning, he readily accepted the decision.

Moses Thatcher in no manner apologized. He stood rigidly for his views, but did acknowledge in substance that he was mistaken in attributing a certain meaning to the political rule which it was decided not to have.

It is apparent that the whole difficulty was exclusively between members of the Mormon Church, and they fought out the difficulty and amicably adjusted the same.

Mr. Thatcher, when testifying, and in referring to his letter on page 572 and the acceptance of the same on page 573, in volume 1, said:

"I made my letter a part of their decision because it left me just where I stood before, absolutely free as an American citizen to exercise my rights as such. It left all the officers of the church absolutely free, and the members, as I understood it, and as I now understand it. It simply applied to the higher authorities of the church, to which I had no objection. Is that an answer?"

It will be observed that Mr. Thatcher states what his understanding "now" is in regard to the meaning of that political rule.

He then further testified, volume 1, page 1038, as follows:

"Mr. VAN COTT. Mr. Thatcher, if that political manifesto at the time it was presented to you had been interpreted as it was by the high-council decision in connection with your letter and the acceptance, would you have signed the political rule?"

"Mr. THATCHER. Why, certainly.

"Mr. VAN COTT. Do you think, Mr. Thatcher, that there would have been any deposition from the quorum of apostles if you had understood in the beginning the interpretation that was given to that political rule by the high council?

"Mr. THATCHER. I do not think so."

Mr. Thatcher further, in his testimony, volume 1, page 1040, said:

"Mr. VAN COTT. Mr. Thatcher, as that rule was interpreted by the high council of the Salt Lake stake of Zion, and your acceptance of it, did that meet with your free and voluntary judgment, or not?

"Mr. THATCHER. Entirely so, for the reason that that was the contention. You will notice in the correspondence which is now filed for record that my objection to the political manifesto was in reference to the fact that it was not definite, that it might be applied to all officers in the church, and seriously I objected to that. I would object to it to-day just as seriously, because I apprehend that under such a condition it would absolutely put the State in the power of the church. That was my objection; but when an authoritative tribunal, holding coordinate jurisdiction with that of the twelve apostles, decided that that was not the meaning—that there was no conflict between the former announcements and the political manifesto itself—I accepted that decision on those grounds, and held that that would be the finding, and it would be the understanding throughout Utah. Whether it was or not, it was my understanding, and I am left perfectly free to stand where I have stood in all that discussion, barring any unkind references while under that misapprehension to my friends in and out of the church."

So after all is said, Mr. Thatcher states that the rule as interpreted accords with his "free and voluntary judgment." He further states that he would object just as seriously now as at first if the political rule applied to everyone in the church.

It is apparent from Moses Thatcher's testimony that his reason was convinced that he was giving up nothing of political independence, he was unyielding in that particular. He accepted the decision of the high council because the political freedom of no one was trespassed upon in the slightest degree. If it had been otherwise, it is apparent that he would not have accepted it.

O. W. Powers, one of the witnesses for the protestants, supported Moses Thatcher's candidacy for the United States Senate, and after Mr. Rawlins was elected Mr. Powers made a speech to the legislature, and in part said (see vol. 1, p. 913):

"Mr. VAN COTT. At that time did you not say that your candidate, meaning Mr. Moses Thatcher, had gone down to an honorable defeat? And I call your attention to your speech, and particularly to the bottom of page 171.

"Mr. POWERS. I said that. I used these words:

"The candidate whose cause I espoused has gone down to an honorable defeat. The standard that he raised aloft has been stricken. Another gentleman, a son of Utah, has succeeded, and I now congratulate him, as I promised I would, that he has been named to represent in the Senate of the United States the great and glorious State of Utah."

"When I am whipped, to use a common phrase, I do not kick.

"Mr. VAN COTT. Yes; but, Judge, while you do not kick you do not state anything that is not correct?"

"Mr. POWERS. Why, I try not to. I yield."

Immediately following, Senator Bailey stated that a defeat might be entirely honorable and yet be accomplished by dishonorable means, and Mr. Powers stated *that* was his meaning.

We contend that Mr. Powers did not intend his language to be so understood, and that it should not be so understood when all the surrounding circumstances are taken into consideration. If Mr. Powers at that time was of the opinion that Moses Thatcher had been beaten by the Mormon Church, that is, that he had been dishonorably defeated, that Joseph L. Rawlins had won because dishonorable means had been used to defeat his antagonist, then we submit that candor and principle required Mr. Powers to so state instead of using the language he did.

J. W. N. Whitecotton, a Gentile Democrat, testified, as appears in Volume II, page 685, to the effect that when the political rule was first promulgated in writing it received the hearty indorsement of the Gentile papers of Utah; that Moses Thatcher seemed to have misunderstood the intent of the Church when he came out with a new declaration of independence; that the Salt Lake Tribune, which was the chief Republican paper in the State, condemned Mr. Thatcher and contended that the Church had a right to control its employees, and that such employees had no right to engage in collateral employments without obtaining leave of absence.

O. W. Powers testified in substance that in his opinion the voters should have supported Joseph L. Rawlins for Congress in recognition of his services to procure Statehood for Utah (vol. 1, p. 899); otherwise Mr. Powers was of the opinion that the Republican party should have won, as naturally it had the majority of votes. Yet, while Mr. Powers makes this criticism, he himself supported Mr. Thatcher and not Mr. Rawlins (vol. 1, p. 911). Such inconsistencies as these exist when it is attempted to criticise what the Mormon voters have done.

O. W. Powers testified that B. H. Roberts was popular with the Gentile people in the State, and that many of them supported him in his race for Congress. As is well known, Mr. Roberts was not allowed to take his seat in the Congress because he was a polygamist.

E. B. Critchlow admits that he drew the protest against Mr. Roberts, which finally resulted in his being excluded. The only thing that is said in this record in favor of Moses Thatcher that did not exist in favor of B. H. Roberts is that the former disobeyed a rule of his church, while the latter did not; and the contention is made that when a member of the Mormon Church disobeys a rule thereof, he is a favorable candidate, and when he is in harmony with the rules of his church, he is an unfavorable candidate.

The protest against B. H. Roberts charged him with being a polygamist and living in unlawful cohabitation. Why should not the same charges have been made against Moses Thatcher if he had been elected to the United States Senate? It is not logical to contend that Moses Thatcher should have been elected and B. H. Roberts defeated, when the only difference was that the former did not get "consent" while the other did.

It is stated that the Gentiles sympathized with the candidacy of Moses Thatcher, and yet it is perfectly plain that on account of his

status as a polygamist he should not have been elected, and that in all human probability he would not have been allowed to take his seat. Yet when Mr. Smoot is elected to the United States Senate (and he is not a polygamist and has always been opposed to the practice of polygamy, and is a good citizen in every other respect), E. B. Critchlow drew a protest against him and attempts to have him ousted from the United States Senate, admitting at the same time that if Senator Smoot were a lay member in the Mormon Church, there would be no objection to him—the only objection is because he is an apostle.

Yet when Mr. Thatcher was a candidate for the United States Senate, he was an apostle and a polygamist, probably living in unlawful cohabitation, and had the sincere sympathy of E. B. Critchlow.

Senator KNOX. Have you not stated that in the end the contest between Moses Thatcher and the Mormon Church came down to be an issue of political slavery on the part of the Mormons, and that that is what Moses Thatcher contended the point was?

Mr. VAN COTT. Yes, sir.

Senator KNOX. In that issue then, I understand, the church won out?

Mr. VAN COTT. When Moses Thatcher was tried by the high council this political rule was explained to him as before mentioned, and finally Moses Thatcher acknowledged that the political rule was a proper one to be enforced by the church, and that if he, Moses Thatcher, had understood it in the beginning he would have given his ready acquiescence to it, and he signed a letter to that effect.

The protestants in this case brought Moses Thatcher here as a witness. Mr. Tayler has complimented Moses Thatcher as being a man of strong character, of great intelligence, and of acute mind, all of which I indorse.

After the difference between Moses Thatcher and the church had been fought out, the former subscribed to the rule, and stated in this case, under oath, that it accorded with his "free and voluntary judgment" (vol. 1, p. 1040).

Notwithstanding Moses Thatcher had so testified under oath, it is still insisted by the protestants and their counsel that Mr. Thatcher did not yield according to his voluntary judgment.

The misunderstanding was between Moses Thatcher and his church; in no sense did it belong either to the public or to the National Government. It was a dispute as to whether a member of the church should be amenable to rules of that church. Whatever may be the particular justice in the matter, it is a *fact* that Moses Thatcher and the Mormon Church settled their own difficulties amicably in the year 1897. Six years later this Moses Thatcher matter was dragged out of the grave and brought into the United States Senate as a reason why Senator Smoot should be ousted from his seat.

The silliness of this contention is so manifest that it is difficult to discuss it with proper decorum, much less to discuss within the rules of propriety the motives that actuated a few persons to bring it here.

EVANS BILL.

The above bill has been referred to for the purpose of showing that the Mormon Church has interfered in political affairs. The proof, even of the protestants, negatives any such idea. The testimony on the part of the respondent on this point only emphasizes what the protestants proved.

Unlawful cohabitation has been dwelt on considerably before this committee, and my colleague, Colonel Worthington, will discuss that particular phase of the matter, and I only refer to it as an introduction to the subject of this bill.

The act of taking a plural wife constitutes the crime of polygamy. The act of living with more than one wife constitutes the crime of unlawful cohabitation.

The testimony of E. B. Critchlow and O. W. Powers for the protestants, as well as the testimony of every witness for the respondent, both from Idaho and Utah, who testified on that subject, is that the Gentiles tolerated the living in unlawful cohabitation where the marriages were performed before the manifesto of 1890. It was the sentiment of the Gentiles that the matter could be better settled by passing it by, or closing the eyes, than to stir it up. This being the general sentiment, it can well be understood that if any person who was not an officer of the law, who was not doing the work as a matter of principle, should undertake to inform and file complaints against persons living in unlawful cohabitation, where the marriages were performed before the manifesto, he would be subjected to general contempt and detestation, not only of Mormons but of Gentiles as well.

Charles Mostyn Owen was employed by an eastern paper to inform on such persons. He did this for a considerable time, and asked to have complaints issued. Mr. Owen was not an officer of the law, was not filing the complaints as a matter of principle, but merely because he was hired to do so by an eastern paper, that undoubtedly did not know the local conditions.

When the legislature met in 1901 the Evans bill was introduced. It will be found in volume 1, page 11. In substance it provided that there shall be no prosecution for adultery or unlawful cohabitation except on the complaint of certain persons nearly related; but it was expressly provided that the act should *not* apply to prosecutions for polygamous marriages. It will be particularly observed that the object of the bill was not to shield those who might contract polygamous marriages (vol. 1, pp. 11, 678).

The object of the bill is apparent—to cut out the informing and the employment of Charles Mostyn Owen, whose work was wholly mercenary. He was hired to inform.

James H. Brady, a Gentile Republican, and chairman of the Republican State committee for Idaho in 1904, testified that Charles Mostyn Owen might "sneak up to windows" and watch men living in unlawful cohabitation, but that he would not do it.

J. W. N. Whitecotton also gave the reasons herein contained for the introduction of the Evans bill in the legislature (vol. 2, page 678).

Joseph F. Smith and several others were in favor of the passage of the Evans bill (vol. 1, pp. 163, 311, 312). The bill passed the legislature and was sent to the governor, who vetoed the bill. The governor was a Mormon (vol. 1, p. 584). The bill then went back to the legislature, and though a great majority of the legislature were Mormons, the bill was not passed over the governor's veto.

Senator HOPKINS. Was it not the contention that the bill was vetoed by the Mormon governor because of aroused public sentiment throughout the country?

Mr. VAN COTT. Yes, sir; that is true. It was contended that that was the reason.

There was such a majority of the Mormons in the legislature that they could easily have passed this bill over the governor's veto, and it has been repeatedly charged that it was not so passed because of the public sentiment that was aroused in the East, and thus the good motives of the governor in vetoing the bill, and of the legislature in not passing the bill over the governor's veto were impugned; on the other hand, if the governor had not vetoed the bill, or if the legislature had passed the bill over the governor's veto, it would have been termed a contemptuous defiance of public sentiment. In other words, when the governor and the legislature did a proper act, absolutely no credit was given. In either event the motive charged was bad.

James H. Brady, of Idaho, and many other witnesses, have testified in regard to the sentiment that existed against the prosecution of these unlawful cohabitation cases. The Evans bill was designed to carry out the public sentiment. The record shows that Senator Smoot desired the Evans bill vetoed. If the bill had passed, it would have been more liberal than are similar statutes in several States of the Union. For instance, the substance of the law on this particular matter is as follows in the following States, to wit:

IOWA: *Code of Iowa, Anno., 1897.*

SECTION 4932. Adultery punished whether one or both married. Complaint can only be made by husband or wife of the person charged.

MICHIGAN: *Compiled Laws Michigan, 1897, vol. 3, page 3476.*

(11688) Defines and punishes adultery.

(11690) No prosecution except on complaint of husband or wife, and within one year from the time offense is committed.

Does not punish fornication.

MINNESOTA: *Statutes of Minnesota, 1894, vol. 2.*

SECTION 6556. Punishes adultery whether one or both married.

Complaint only by husband or wife, unless insane, and prosecution must be within one year from time offense committed.

SECTION 6557. Fornication punished.

NORTH DAKOTA: *Revised Codes of North Dakota, 1895.*

SECTION 7169. No complaint can be made except by husband or wife, and then only within one year from time offense committed.

OKLAHOMA: *Revised and Anno. Statutes of Oklahoma, 1903.*

SECTION 2264 of Vol. 1. No complaint can be made except by husband or wife unless "living together in open and notorious adultery." Fornication is not punished.

OREGON: *Bellinger & Cotton's Anno. Codes and Statutes.*

SECTION 1917. No complaint can be made except by husband or wife, unless the female is unmarried and under 20. Then the complaint may be also made by the parent or guardian.

The State of Illinois, in legislating against adultery and fornication, provides as follows:

ILLINOIS: *Revised Statutes (Hurd)*, 1899, page 563.

SECTION 11. Punishes " * * * living together in an open state of adultery or fornication * * * ".

Illinois seems to have the parent statute of many States using the peculiar words of "living together in an open state," etc.

The Evans bill has been lugged before this committee. Many pages of testimony have been devoted to the subject; and, after all is said, it must be remembered that the bill *never* became a law! As Senator Smoot advocated the veto of the bill, and it did not become a law, one may reasonably think it is the idea of the protestants that Senator Smoot should *therefore* be ousted. Otherwise, it is difficult to understand why the matter was ever mentioned.

Even if the bill had become a law it would only have been in accordance with the legislation of several other States in the Union. Taking the ground that the Evans bill was unwise legislation, and it had become a law, still the passing of such a law is no reason why Senator Smoot should be ousted from the United States Senate. It is such insignificant things as this that are brought before this committee in an endeavor to unseat Senator Smoot.

PUBLIC SCHOOLS.

The protestants sought to prove that the Mormon Church was interfering in the political affairs of Utah, because some religion classes were held in the public schoolhouses. It appears from the testimony that the Mormon church has what are known as "religion classes."

A. C. Nelson, State superintendent of public instruction, testified for the protestants. His testimony commences in volume 2, page 366. Mr. Nelson is a Mormon, and states that classes were held once a week (vol. 2, p. 373). These classes were held after the regular school was dismissed (vol. 2, p. 368). After some inquiry he sent out circular letters forbidding the use of the schoolhouses for such purpose (see his letter, vol. 2, p. 372).

Mr. Nelson further testified that his attention was first called to the fact that religion classes were held in the public school buildings in 1901, and that he consulted the attorney-general, who is an elective officer, and is and always has been a Gentile. The attorney-general advised that it was legal to allow these religion classes to be held in the public schoolhouses, and the Mormon Church in the different places arranged terms with the school trustees for so doing. Later on the State superintendent concluded that it was not legal and disregarded the advice of the attorney-general. Mr. Nelson states that just before he boarded the train to come to Washington and testify in this case he read his circular letter to the attorney-general, who said (vol. 2, p. 374):

"That sounds very well, and it is written quite well, but," he said, "you may state to the Senate committee on investigation that I am still of the opinion, notwithstanding your document, that the school boards have a legal right to permit the use of the school buildings for religion-class purposes when there is an interval between the adjournment of school and the taking up of the class."

Mr. Nelson also testified that when Senator Smoot called at his office and was told what was being done as to forbidding the use of the public schoolhouses for religion classes, he said: "Good! I am glad to hear it" (vol. 2, pp. 374-375).

Shortly afterwards the State superintendent issued a circular letter. The Mormon Church then issued a circular letter in accordance with the circular of the State superintendent prohibiting the holding of such classes in the public schoolhouses (see vol. 3, p. 201).

The Mormon Church at first made arrangements to use the public schoolhouses after school hours, in accordance with the legal opinion of the attorney-general; and later on, when the State superintendent of schools, who is a Mormon, prohibited such use on his own motion and contrary to the advice of the attorney-general, the Mormon Church at once acquiesced. This is another instance of what Mr. Tayler called the "policeman's club." That is, the Mormon Church is criticised if it uses the schools, even though it is in accordance with the opinion of the proper legal State officer. If the Mormon Church ceases using the public schoolhouses, in accordance with the opinion of the State superintendent of schools, then it is because of Mr. Tayler's alleged "policeman's club."

S. N. Cole testified on this subject. His testimony is found in volume 2, pages 807-808. He states that in Bear River Valley there is a small settlement which has been in existence but a short time. It is peopled by Mormons and Gentiles. There is only one public building there, namely, the schoolhouse; it is used for school purposes, also, under proper arrangements, used for religious purposes by the Baptists, Methodists, and Mormons. These denominations are endeavoring to put up their own church buildings, but they are not completed. It must be borne in mind that in a new country the people probably first build a schoolhouse; and as they are poor they will not at once build their separate churches, but will make arrangements to use the schoolhouse for religious purposes until their churches are built. If Mormons are the only ones who make such use, then a great hue and cry is made about the matter. If, on the other hand, it is used by Mormons and other religious denominations, nothing is said. This is another matter that is entirely immaterial to the issues. Whether or not religious classes were held in the public schoolhouses of Utah has nothing to do with the retention by Senator Smoot of his seat in the United States Senate.

MORMON CHURCH IN BUSINESS.

The next alleged reason for unseating Senator Smoot is that the Mormon Church is engaged in various business enterprises. Some churches in some localities are concerned with spiritual affairs and only with temporal affairs so far as necessary to carry on spiritual work. Some churches in other localities own considerable property, and therefore carry on some kind of business. Some churches own a large amount of property and rent the same, as, for instance, Trinity Church in New York City. It is a matter of general knowledge, however, that churches all over the country own property and are more or less engaged in some kind of business, even though it may be only the renting or improving of property.

The objection in this case, as we understand it, is not that the Mormon Church enters into various kinds of business or any particular kind of

business, but that it does business at all. Nearly all the churches in the country do some business, and this is necessarily so if they own any property aside from church edifices. The Mormon Church has seen proper to carry out practically what it teaches theoretically; that is, it endeavors to find profitable employment for many of its converts. It is a matter, however, that pertains either to State policy or to church policy, and even remotely has nothing to do with the National Government. The assumption seems to be made by the protestants that churches are good for nothing except theory, and that if they do any practical good in the way of carrying on business enterprises, their members are not fit to hold any political office.

The Congress could not pass a law, and if it did it would be unconstitutional, forbidding a church in a State from engaging in business; this is inhibited by the first amendment of the Constitution prohibiting the establishment of a religion or prohibiting the free exercise thereof; all such matters are left to the States and the Federal Government is without any jurisdiction.

No authority is necessary to support the above proposition, especially since the matter has been expressly adjudicated by the Supreme Court of the United States. In 3 Howard, 589, *Permoli v. Municipality*, No. 1, it was held that the political right to religious liberty as provided in a certain ordinance and certain act of Congress ceased to depend thereon when Louisiana was admitted into the Union, and that if religious liberty existed, it was under the constitution of the State alone.

As the Congress can not legislate directly as to a religious test, it can not indirectly undertake to punish a member of any church by excluding him from the United States Senate. The limit of the Senate's action as to exclusion should certainly never be beyond its constitutional power to enact legislation.

The authorities cited in the early part of this argument also show that the Congress has no such power of legislation.

CHURCH COURTS.

The protestants contend that Senator Smoot should be ousted because the church maintains what are called "church courts" for the purpose of disposing of the cases embraced within the general term of "un-Christianlike conduct."

It appears that the Dunkards, the Quakers or Friends, the Mennonites, and the Presbyterians maintain church courts for the purpose of settling the differences that may arise in their churches (vol. 3, pp. 39 to 42).

On pages 40-41 is an article on "Arbitrations" taken from the book of the Quakers, and it will be noticed with what particularity are arbitrations provided for.

Doctor Talmage also stated that it was his understanding that many other churches maintain courts for the same purpose. We grant that a general practice of churches to maintain these courts does not prove that it is right, but it does show the general sentiment of religious people on that question.

Again, it is the highest policy of the law to discourage litigation, to encourage friendly settlements of disputes, and peaceable arbitration. This is the exact policy of the Mormon Church, and what it accomplishes by its church courts. It is said, however, that it settles what

are commonly called business disputes. It is apparent at once that it is very difficult to handle a person in a church court for un-Christian-like conduct unless it pertains to some temporal matter, either civil or criminal.

No reasonable person would dispute but what a church court has a right to handle its members for un-Christianlike conduct, and because such conduct involves a property right as an incident is not a good reason for saying that the court shall not act at all; and if it does act, it seems to be proper that it should dispose of the controversy, not as binding on the courts, but as a peaceable settlement of disputes. Why are not these courts carrying out the general policy of the law, namely, to settle disputes peaceably, to discourage litigation, to promote good feeling, without resorting to the expense and annoyance of litigation?

The general policy of the law is to encourage the settlement of controversies by peaceable arbitrations. (See 1 Parson's on Contracts (9th ed.) star p. 438, and cases there cited.)

Miss Cora Birdsall was handled for un-Christianlike conduct in that she had attempted to obtain a fraudulent advantage over Mr. Leavitt, and in connection with the case the right to the property was adjudicated by the church courts. Mr. Tayler dwelt at some length on the condition of Miss Birdsall's mind, and we can all agree that her case was pathetic; but it is a query if there would not have been the same result if Mr. Leavitt had taken his case into the civil courts and had there won? We can not know this definitely, but it is not unlikely that the condition resulted from the loss of the property as much as, or more than, from the excommunication.

There are two matters that appear quite prominently in connection with the Birdsall case. One is, that the Mormon Church does not undertake to settle controversies except between members of its own church. Mr. Leavitt was a Gentile, and that point was entirely overlooked in settling the dispute. It further appears that it is not the policy of the Mormon Church to settle disputes regarding real estate. This is shown by letters on the subject. (See vol. 3, pp. 13 to 20.)

The Federal Government has no jurisdiction of either churches or their courts in the respective States, and the same reasoning and the same authorities apply as appear under the preceding heading, entitled "Mormon Church in Business."

Conceding for argument's sake that it is wrong in principal for any church court to consider any of the matters that are usually adjudicated by the civil courts, still it is just as wrong for the Congress, directly or indirectly, to legislate on such matters in the States or to exclude a Senator because his church may conduct such courts.

BRIGHAM CITY MATTERS.

Two reasons are alleged by the protestants to unseat Senator Smoot in regard to Brigham City matters, to wit:

A. *Dancing-parilium matter*.—In Volume 1, page 597, E. B. Critchlow testified that it was a matter of notoriety that the Mormon Church authorities in Brigham City had cut off from the church, or dis-fellow-shipped, certain members for going to a certain dance hall contrary to the counsel of the priesthood. He testified only from repute and did not pretend to give the facts, as he knew nothing about them.

Oleen N. Stohl testified in this case. He lives in Brigham City, and is one of the stake presidency. He was cognizant of the actual facts

in the case. His testimony is found in volume 3, and commences at page 324. He states that no one was cut off from the church or dis-fellowshipped on account of the dancing-pavilion matter; that it was a dispute entirely among Mormons (p. 325).

The church authorities claimed they had the right to have charge of and regulate the places of amusement for the Mormon people (p. 331). Whatever the merits of the dispute were, it was finally settled amicably by all parties concerned (p. 334).

Suppose those church officials wrongfully claimed to regulate places of amusement for members of their church, what difference in principle should it make to the right of Senator Smoot to retain his seat?

A conclusive answer, however, to this entire question is that the Congress has nothing to do with the matter; the same reasons apply here as in the concluding part of "church courts," and reference is made to them without repeating here.

B. *Electric-light plant.*—E. B. Critchlow testified for the protestants regarding this matter. See volume 1, pages 596 to 599. He did not testify from actual knowledge, but from repute. It was reputed that the people of Brigham City desired to own their own electric light plant and that a private corporation, engaged in the same business, induced Stake President Kelly to favor the private lighting of the city by offering him a present of thousand shares of stock; that Kelly then told the mayor of the city that he had had a revelation on the subject, that he was right and that God had told him that the city ought to be lighted by a private company of which he, Kelly, should be the president (vol. 1, p. 596; see also p. 599).

Oleen N. Stohl also testified on this subject. His testimony is found in volume 3, commencing at page 324.

Mr. Stohl lives in Brigham City, and testified from personal knowledge. It is again a case of fact versus repute. He states that he never heard of Stake President Kelly receiving a revelation regarding the electric-light works or of Mr. Kelly owning a thousand shares of electric-light stock or that Mr. Kelly ever claimed to have received a revelation.

He further states that during the entire controversy Mr. Kelly advocated municipal ownership of the electric-light plant (vol. 3, pp. 324-325).

Considerable feeling arose over the matter, and finally the high council and the city council met in an endeavor to settle the matter by friendly arbitration, so as to avoid expensive litigation, it being distinctly understood by all parties that whatever was agreed to should be submitted to the people of Brigham City for ratification. The city council and the high council made a recommendation to settle the controversy. It was submitted to the people, and they voted it down. It appears that about 90 per cent of the people in Brigham City are Mormons (pp. 326-333).

This matter was also in the tomb until the protestants brought it before this committee as another alleged reason why Senator Smoot should be ousted.

The same remarks apply to this matter as in the concluding part of "church courts," and reference is made to them without repeating here.

SALT LAKE CITY ELECTION FOR 1903.

O. W. Powers testified that the Mormon Church turned Salt Lake City in the election of 1903 from the Republican party over to the Democratic party (vol. 1, pp. 866-867).

Considerable stress has been laid upon this point, because it is claimed that it shows that the Mormon Church interferes in political affairs. Mr. Powers also testified to the same effect in volume 1, page 901. On that page and page 902 it appears that many Gentile Republicans opposed the Republican ticket. For instance, Judge Charles S. Zane, Mr. Allison, president of the State senate; W. F. James, M. H. Walker, Grant H. Smith, Dean Eddy, an Episcopal minister; O. J. Salisbury, national Republican committeeman, and others.

As I now recollect, Mr. Powers was the only witness who testified to the above effect. If any others so testified it has now escaped my memory. Every other witness who has testified on the subject in this case has stated that the Mormon Church had nothing to do with turning Salt Lake City over to the Democrats in 1903. They all say it was due to other causes, and that a large number of Gentile Republicans assisted the Democrats in that election and contributed money to the Democratic cause; this was done on account of alleged corruption. It is unnecessary to mention the names or to give all the pages of the record where this testimony appears. It will be sufficient to give a part, to wit: Volume 2, pages 746, 818; volume 3, pages 151-152, 338.

As before stated there were three witnesses for the protestants on political matters in Utah—namely, E. B. Critchlow, O. W. Powers, and Ogden Hiles, and in weighing their testimony it is proper to refer to the same for the purpose of determining its weight.

E. B. CRITCHLOW.

His testimony commences in volume 1, page 542, and he stated that it was rumored that Stake President Kelly had received a revelation in regard to the electric light plant, and as to the ownership of shares of stock and of disfellowshipping certain Mormons. (See vol. 1, pp. 596-597.)

Senator Beveridge developed the fact that the people refused to follow any such alleged revelation (vol. 1, p. 599).

The rumor testified about was entirely disproved by the testimony of Oleen N. Stohl, who knew the facts.

Mr. Critchlow prepared the protest against Senator Smoot and procured names to the same (vol. 1, pp. 592, 600, 613). He stated that Senator Smoot had received the "endorsement" of the Mormon Church (vol. 1, p. 598).

Senator Beveridge elicited the fact that all of the names on the protest were Mr. Critchlow's friends (vol. 1, p. 602).

It further appears that the ministerial association was active in its opposition to Senator Smoot. The same association was active in defeating Jacob Moritz, who is an excellent gentleman, a good citizen, a Republican, a Gentile, but who was engaged in the brewery business and who would have been elected but for the work of the ministerial association (vol. 1, pp. 613-614, 616).

Mr. Critchlow was an assistant prosecuting officer in 1890 and part of 1891, but he did not prosecute Joseph F. Smith or John Henry

Smith, and could not recall one conviction during the time mentioned, nor did he attempt any prosecution.

In answer to Senator Beveridge, he stated that Joseph F. Smith was a prominent man and that if he had attempted to prosecute him he thought he would remember; it was his duty to stir up the officers; there was a disinclination on the part of everyone connected with the prosecution to stir up those matters; it was thought that the matter would work itself out, and the situation would become alleviated by the general progress of time; there was no inclination on the part of the prosecuting officers to push matters as to present cohabitation; it was the understanding that John Henry Smith was living in unlawful cohabitation; and there was no sentiment in Utah, no great sentiment, that would favor putting Joseph F. Smith in the attitude of being persecuted for his religion; the same thing was true generally of polygamists who were such before the manifesto (vol. 1, pp. 617 to 620).

In 1890 and 1891, when Mr. Critchlow held an official position and could have prosecuted prominent men for unlawful cohabitation, he did not do so, though it was his duty; at the present time, however, he is making a specialty of prosecuting Senator Smoot, who has violated no law; he voted for John Henry Smith, a polygamist, for the constitutional convention; also voted for other polygamists. Senator Beveridge elicited the fact that Mr. Critchlow did not admonish Mr. Smith of his unlawful practices (vol. 1, p. 623); he was out campaigning with polygamists, and states that the general feeling among non-Mormons was to close their eyes to unlawful cohabitation, except as to those that were absolutely offensive, or occurred in such a manner as to be really examples to the people (vol. 1, pp. 624-625).

While in the legislature he moved the adoption of the Republican slate, which had the name of a polygamist for one of the appointive positions. He was also in the convention in Salt Lake County, in 1902, when Senator Smoot was a candidate for the United States Senate. He opposed Mr. Smoot, but when the latter won, the former moved to make the nomination unanimous. (Vol. 1, pp. 662-663.) He was also in the campaign of that year speaking for the Republican ticket, when he knew that "in all human probability" Mr. Smoot would be the next United States Senator if the Republican party won. The witness further stated that the Mormon Church has just as much control over a lay member as over an apostle. (Vol. 1, p. 664.) He was interrogated as to the alleged interference of the Mormon Church in political affairs, and, after a number of questions, said (vol. 1, p. 679):

"I do not think I or anyone else—well, I will say myself—I do not think I could take the returns of any election and analyze them so as to prove to a moral certainty to myself or to anyone else that the church had interfered in any election."

On the same page he took occasion to call Judge Baskin an "indifferentist."

Charles Mostyn Owen referred to Judge Baskin as having the "pregnant knee." These are the only two witnesses in the case who made any reflection on the moral integrity or courage of Justice Baskin. Every other witness who testified on the point gave the Justice high praise for integrity, honesty of purpose, courage, and determination.

With the foregoing facts before us, attention is invited to the following considerations:

1. In the Republican convention in Salt Lake County in 1902, Mr. Critchlow moved to make the nomination unanimous of the legislators who would support Reed Smoot for the United States Senate; and also took part in the campaign when he knew that, if the Republican party won, Reed Smoot, "in all human probability," would be the next United States Senator.

The witness knew from the Thatcher episode in 1895 that Senator Smoot had to get "consent" to run for the United States Senate. When the Republican party had won, and it was a foregone conclusion that Reed Smoot would be the next United States Senator, Mr. Critchlow commenced to undo the work he had helped to do; he knew nothing regarding Senator Smoot after his election that he did not know before. No new fact occurred to change his opinion.

Is it not inconsistent to do so much work to elect Reed Smoot as a Senator and then do so much in an endeavor to unseat him?

2. J. L. Leilich signed the first protest herein, which is dated January 26, 1903 (vol. 1, p. 26). About a month later, February 25, 1903, the same J. L. Leilich swore to another protest which appears in the record (vol. 1, pp. 26 to 30).

We quote paragraph thirteenth of the protest made by J. L. Leilich (vol. 1, pp. 29-30).

"Thirteenth. That the said Reed Smoot is a polygamist, and that since the admission of Utah into the union of States he, although then and there having a legal wife; married a plural wife in the State of Utah, in violation of the laws and compacts hereinbefore described, and since such plural or polygamous marriage the said Reed Smoot has lived and cohabited with both his legal wife and his plural wife in the State of Utah and elsewhere, as occasion offered, and that the only record of such plural marriage is the secret record made and kept by the authorities of the Church of Jesus Christ of Latter-Day Saints, which secret record is in the exclusive custody and control of the first presidency and the quorum of the twelve apostles of the said church, of which the said Reed Smoot is one, and is beyond the control or power of the protestants. Your protestants respectfully ask that the Senate of the United States or its appropriate committee compel the first presidency and the quorum of the twelve apostles and the said Reed Smoot to produce such secret record for the consideration of the Senate. Your protestants say that they are advised by counsel that it is *inexpedient at this time* to give further particulars concerning such plural marriage and its results or the place it was solemnized or the *maiden name of the plural wife.*" (The italics are ours.)

Mr. Critchlow admits that he and others talked with Mr. Leilich regarding this polygamy charge, and Mr. Critchlow knew that Leilich's information on the subject was not information at all (vol. 1, p. 608). Yet he did not denounce the charge as untruthful when it was published. Mr. Critchlow desires to oust Senator Smoot from the United States Senate for the alleged reasons that the latter has not the political independence and high honor of the former; in other words, the former has a higher standard than the latter. Applying the former's standard to himself, it seems reasonable that when Senator Smoot was being so basely slandered—when so much bias and prejudice were

being aroused by those Leilich charges—Mr. Critchlow should have taken steps to show that Mr. Leilich had no information upon the subject, particularly when Mr. Critchlow help elect Reed Smoot United States Senator. Under such circumstances it certainly did not require very much courage or a very high standard of morality to set Senator Smoot right before the public on those Leilich charges.

3. Mr. Critchlow was instrumental in procuring the attendance as a witness before this committee of Angus M. Cannon, jr.; the latter's testimony is found in volume 1, page 1059 et seq. Mr. Cannon is unbelievable, according to his own testimony, but the pertinent inquiry is whether Mr. Critchlow knew that when he procured Mr. Cannon's attendance.

Considerable stress has been laid upon the point in this record that Joseph F. Smith performed the marriage ceremony for Abram H. Cannon and Lillian Hamlin, and Mr. Tayler, counsel for the protestants, naturally expected that Angus M. Cannon, jr., would testify that he was in California in 1896 and knew of that marriage ceremony. Mr. Tayler's examination so shows. Had Mr. Critchlow the right to so believe?

James E. Lynch (vol. 1, p. 752) testified that he was a Gentile and a brother-in-law of Angus M. Cannon, jr., and that he had known him for some 25 years. He states that Mr. Critchlow came to him and said that Mr. Cannon had informed Mr. Wilson that he (Cannon) had witnessed the marriage between Abram H. Cannon and Lillian Hamlin on the high seas, in 1896, and Mr. Critchlow asked Mr. Lynch if he knew anything about it. Mr. Lynch replied that he did not, but he did not believe it, and asked if Angus M. Cannon, jr., had been drinking, and the reply was "Yes, somewhat." Mr. Lynch said that he would investigate it closer. He went to the 'phone and did so, and then informed Mr. Critchlow that Angus M. Cannon, jr., was not in California in 1896, and told how he knew.

All this occurred before Angus M. Cannon, jr., left Salt Lake to come to Washington to testify in this case.

R. T. Burton, jr., testified (vol. 2, p. 802) that he is acquainted with Angus M. Cannon, jr., and with E. B. Critchlow, and that he had a conversation with Mr. Critchlow in Salt Lake after Angus M. Young, jr., had testified in this case, and Mr. Critchlow said that he would not believe Angus M. Cannon, jr., on oath (vol. 2, p. 802 to 804).

The foregoing testimony of James E. Lynch and R. T. Burton, jr., is uncontradicted.

A number of witnesses also testified that the general reputation for truth of Angus M. Cannon, jr., in the community in which he lived, was bad, and had been for a number of years, one witness going as far back as twenty years.

The following witnesses, among others, testified on the subject:

Arthur Pratt, volume 2, page 747; E. D. R. Thompson, volume 2, page 994; Elias A. Smith, volume 2, page 844; Glen Miller, volume 3, page 161; Moroni Gillespie, volume 3, pages 318-319.

There was no testimony to support the general good reputation for truth of Angus M. Cannon, jr.

OGDEN HILES.

The testimony of Mr. Hiles is found in volume 1, page 687. In substance, Mr. Hiles testified that Reed Smoot would never have been elected United States Senator unless he had been an apostle; and he was not seriously considered for that position until he became an apostle (vol. 1, p. 692).

Mr. Hiles is not supported by even one witness for the protestants in these statements. He is contradicted in these statements by every witness who has testified on this subject, and there are many, as will hereafter appear. Mr. Hiles also stated that Senator Rawlins was "pretty close to a Mormon" (vol. 1, p. 695-696). No other witnesses so testified for the protestants. On the contrary, E. B. Critchlow, one of the protestants, and many witnesses for the respondent, testified to the contrary.

O. W. POWERS.

The testimony of Mr. Powers will be found in volume 1, commencing at page 795. We have discussed the testimony of Mr. Powers in other places, and will not repeat all of it here. In the reconvened convention Mr. Powers did not claim that the Mormon Church interfered in political affairs. In this record he does claim it. Mr. Powers complained because Mormon voters did not support Senator Rawlins, yet Mr. Powers supported Moses Thatcher and not Senator Rawlins. Mr. Powers made a speech when Moses Thatcher was defeated, and stated that he had gone down in an honorable defeat; yet the witness now wishes the committee to believe that if it had not been for the church Moses Thatcher would have been elected United States Senator.

It is well established in the record that the Mormon people prior to the division on party lines in 1891 were not well versed in politics. It appears in the election for United States Senator in 1899 that Heber Bennion asked Mr. Powers for his advice. The only proper way to present this particular point is to quote the question and answer. To point the advice that was given, it must be remembered that the legislature at that time was Democratic, Heber Bennion and A. W. McCune were Democrats, George Q. Cannon was a Republican. Mr. Powers advised Mr. Bennion (Democrat) to vote for George Q. Cannon (Republican) as United States Senator.

The question and answer are in volume 1, page 927, and are as follows:

"Mr. VAN COTT. One other question. Calling your attention to the time when George Q. Cannon was voted for as United States Senator by the Democratic legislature, did not Heber Bennion ask your advice about that matter, and did you not tell him it was better to support George Q. Cannon for the United States Senate than to support Alfred W. McCune?

"Mr. POWERS. No; I think I stated the other day the substance of my remarks to Mr. Bennion, as I recall them. They were to this effect: That I met him, as I recall it, in the city and county building, where the legislature held its sessions, shortly after noon. He spoke to me in the hall, and said to me that there was talk of voting for George Q. Cannon for Senator, and asked me what I thought about it. As I say, the thought in my mind at that time was that it was prepos-

terous, and I said to him: 'I believe it would be a good thing.' My recollection is quite clear as to what I said, for there was an inaccurate report of it afterwards in the newspapers, which caused me to reflect as to what I had said. I said to him: 'At any rate, you would be voting for a man of ability.'"

Mr. Powers also testified that Salt Lake City went Democratic in 1903, because of the assistance of the Mormon Church. This is contradicted, according to my memory, by every witness in this case who has testified upon the point.

Mr. Powers, in speaking of one of the Republican State conventions, stated that Judge Booth nominated himself for Congress (vol. 1, pp. 904-905). The witness did not know this of his own knowledge, but gave it as common repute. It was attempted on cross-examination, as appears on page 905, to show by Mr. Powers that Judge Booth was not serious in the matter, but Mr. Powers would not have it that way.

Charles DeMoisey was in that convention, and knew the facts, and testified that a point of order was made while Judge Booth was speaking, to the effect that he (Booth) was not nominating a candidate or seconding the nomination of one, and when the chair ruled him out of order he answered back, "I am seconding the nomination of John E. Booth." Mr. DeMoisey says that the House took it good naturedly, and allowed him to finish his argument—his wit was appreciated in holding the floor against the ruling of the chair (vol. 2, p. 1001).

At the least, it was lame taste to drag Judge Booth into this record so unnecessarily, and in such an uncomplimentary manner. In any event, whether Judge Booth seriously or not nominated himself, it had nothing to do with the merits of this case.

Here are the names of our witnesses and the page of the record. We have selected a few of the most important points, and cited the pages supporting the same, but all the testimony on the point is not stated. We are willing to state the substance of the testimony of each witness, but it would take too much space.

The following are Gentiles who testified for the respondent:

J. W. N. Whitecotton, Vol. II, page 659; H. E. Booth, Vol. II, page 705; Arthur Pratt, Vol. II, page 742; H. M. Dougall, Vol. II, page 755; A. A. Noon, Vol. II, page 668; William Hatfield, Vol. II, pages 784, 795; J. P. Meakin, Vol. II, page 796; S. N. Cole, Vol. II, page 805; James A. Miner, Vol. II, page 813; W. P. O'Meara, Vol. II, page 857; Charles W. Morse, Vol. II, page 864; William McCarty, Vol. II, page 878; A. S. Condon, Vol. II, page 933; E. D. R. Thompson, Vol. II, page 989; Charles DeMoisey, Vol. II, page 999; Glen Miller, Vol. III, page 145; John W. Hughes, Vol. III, page 162; Mary E. Coulter, Vol. III, page 166; Mrs. W. H. Jones, Vol. III, page 175; Frank B. Stephens, Vol. III, page 344; Z. T. Sowers, Vol. III, page 378.

The following are Mormons who testified for the respondent:

W. D. Candland, Vol. II, page 823; E. A. Smith, Vol. II, page 839; R. W. Young, Vol. II, page 950; F. S. Fernstrom, Vol. II, page 1010; C. V. Anderson, Vol. II, page 1013; H. J. Hayward, Vol. II, page 1014; J. C. Nielsen, Vol. II, page 1015; William Langton, Vol. II, page 1022; J. E. Talmage, Vol. III, page 4; Reed Smoot, Vol. III, page 182; Moroni Gillespie, Vol. III, page 316; J. M. Whittaker,

Vol. III, page 322; J. U. Eldredge, jr., Vol. III, page 335; David Eccles, Vol. III, page 449.

Of the Gentile witnesses, James-A. Miner has been a district judge in Utah, and also has been one of the justices of the supreme court; Charles W. Morse is now a district judge in the State; William M. McCarty has been one of the district judges in the State, and is now a justice of the supreme court; Glen Miller has been United States marshal for the State of Utah; Mrs. Mary G. Coulter was in the legislature and voted for Reed Smoot as United States Senator; the other Gentile witnesses are prominent in the State, but for the reason above given we will not state the testimony of the witnesses.

Of the Mormon witnesses, R. W. Young is a graduate of West Point and Columbia Law College. He has served in the Army, in the Philippine Islands during the Spanish war, and has also been one of the judges of the highest court there. Mr. Young stated that he had adhered closely to his party ticket in Utah, and under circumstances when he would not have done so if he had been in any other State. He states that he adhered to his party line on account of the suspicion that there was that the Mormon people would not be loyal to their party.

Charles Mostyn Owen testified that David Eccles was reputed to have taken a polygamous wife since the manifesto of 1890. Dr. A. S. Condon denied there was any such repute. David Eccles himself testified that he had not done so, and the woman who was accused of being such wife (Margaret Cullen Geddes) also denied the story.

Mr. Glen Miller, at some length, gave the reasons why the Mormon people gradually drifted from Democracy to Republicanism. (See Vol. III, p. 149 et seq.)

Here are some of the headings which the witnesses for the respondent have covered, to wit:

Senator Smoot was prominent in Republican politics before becoming a United States Senator, and might reasonably be expected to become a Senator; the fact that he was an apostle did not help him; some of the witnesses say that he was handicapped because of that fact (Vol. II, pp. 680-681, 684, 745, 859). On this last page it is stated that Senator Smoot remained with the Republican party when many of its adherents deserted on the silver issue (p. 994; Vol. III, pp. 163, 171, 178).

All the witnesses, with the exception of Ogden Hiles, state that Senator Rawlins is a Gentile. All the witnesses for the respondent who testified upon the point, say that "consent" is not an indorsement, it is a mere leave of absence, and is so understood.

J. W. N. Whitecotton and others testified to this effect.

The witnesses also testified that the Mormon voters are independent in politics, and constant to their party lines, as much as or more so than Gentiles. (Vol. II, pp. 669, 708-710, 745, 752, 800, 806, 825, 843, 890 et seq., 992-993, 1003; Vol. III, pp. 147, 163, 168, 177, 337, 350.)

The testimony shows that Judges Zane, Barch, Miner, Baskin, and McCarty had been active in exterminating polygamy in Utah. Justice Baskin had been active in Congress in procuring what is called anti-Mormon legislation. The other judges had been vigorous, while occupying official and judicial positions, in prosecuting polygamy and unlawful cohabitation cases. All of these men were elected to the supreme court.

Justice McCarty states that when he ran for district judge, he was supported by the Mormon voters, though he had been vigorous as a prosecuting officer. He states that in one election in Richfield, Sevier County, he was cut considerably, but this was done by the Gentiles.

It was also testified that there has been great progress in Utah from the issuance of the manifesto in 1890 up to the present time. Some say the progress has been marvelous, some phenomenal, and some satisfactory. (Vol. II, p. 669; Vol. III, p. 164.) There is very much testimony on this point, but we do not think it is necessary to state it all.

It was also testified that polygamy is a dying institution, and that the sentiment of the Mormon people is against it (Vol. II, pp. 672, 714, 718, 725-726, 745, 752, 798, 809, 817, 826, 858, 864). On the last page it appears that while Charles W. Morse was one of the judges of the third judicial district court, a grand jury was impaneled to investigate rumors of polygamy cases, and, after a thorough investigation, no indictments were returned (pp. 936-937, 953; Vol. III, pp. 163-164, 169-170, 353).

One of the protestants stated that Nicol Hood was disfellowshipped or excommunicated because he opposed the election of Reed Smoot to the United States Senate. This testimony was based on common rumor. Respondent produced J. M. Whitaker who knew the facts. His testimony is in Volume III, pages 322-2, and he states that Nicol Hood was neither disfellowshipped nor excommunicated; that he voluntarily ceased instructing a Sunday-school class. This is another case of rumor as opposed to fact.

It is testified that Senator Smoot could not have been elected United States Senator without the general support of Gentile Republicans, and that he had such support. (Vol. II, pp. 681-682, 720.) On this page it appears that Mr. Lippman, now manager of the Salt Lake Tribune, and other Gentiles, supported Reed Smoot for United States Senator (p. 721). It was generally known that it was necessary to get the "consent." (Vol. II, pp. 860, 861, 935; Vol. III, p. 148.)

It is testified that scarcely a man in Utah was better known than Reed Smoot before he became a United States Senator. (Vol. II, p. 684.) It was also known that he had received "consent" before the primaries were held. (Vol. II, p. 721.)

All the witnesses speak very highly of Senator Smoot's character and life. (Vol. II, p. 712.) Doctor Buckley, a witness for the protestants, states that he was "compelled to say" that not a single person had a word against Senator Smoot.

Mr. Whitecotton testified in substance to the same effect. (Vol. II, pp. 686, 687.) There is not a witness in the case who has testified upon the point but who has given the highest praise to the life and character of Senator Smoot.

It is also testified that the Mormon Church does not interfere in politics. (Vol. II, pp. 708, 711, 954, 955.)

It is testified that the political rule was indorsed by the Gentiles and Gentile newspapers, and so many witnesses have testified about this matter that it is deemed unnecessary to cite the pages, particularly when there is no contradiction of the fact. The highest praise has been given to Justice Baskin for honesty of character and for courage and strength of will. (Vol. II, pp. 712, 862.)

We have not given all the citations on this subject, because we deem it unnecessary.

The testimony also shows that the Mormon Church does not control the business in Utah. (Vol. II, pp. 713, 841, 842, 863, 864; Vol. III, pp. 159, 160, 348.)

The testimony shows that Senator Smoot has always been opposed to the practice of polygamy. (Vol. II, pp. 680, 688.)

All the testimony is to the effect that the Mormon people are very law-abiding. The only exception has been polygamy, and what results therefrom, unlawful cohabitation. (Vol. II, p. 747.)

J. H. Brady, Gentile Republican chairman of Idaho in 1904, stated that he had made a thorough investigation, and that there were only 56 polygamists in Idaho in a population of 40,000 Mormons. We have not summarized the other citations on this point, because the testimony is so unanimous.

The testimony also shows that Gentiles on the political tickets have equal chances with the Mormon people, and that the offices, both elective and appointive, are not only fairly divided, but that the Gentiles receive more than they are entitled to, according to the proportion of population. (Vol. II, pp. 670, 671, 674-677, 707, 712, 748, 819, 820, 938, 1002.)

The respondent's testimony is unanimous to the effect that Joseph F. Smith is sincere in his desire to keep the Mormon Church entirely out of politics, and that he has the ability to do so, and has done so ever since he became president of the church in 1901. (Vol. II, pp. 747, 748, 751, 858; Vol. III, p. 163.)

Here are a few (and only a few) typical inconsistencies of the protestants and a few other persons:

1. Gentile papers and Gentile Republicans indorsed the "political rule" when it was issued in 1896; seven years later, in 1903, a few individuals sought to oust Senator Smoot because of that rule.

2. Gentile papers and Gentile Republicans derided and ridiculed the reconvened convention when it was held in 1895; eight years later the reconvened convention is held up as the sacred political idol.

3. Gentile papers denounced Moses Thatcher in 1896 because he sought political office without getting "consent" under the political rule; seven years later Moses Thatcher is deified because he would not ask for that same "consent."

4. E. W. Wilson, one of the protestants, voted for Joseph L. Rawlins for United States Senator, when he could have voted for Moses Thatcher; some others who voted for Senator Rawlins are now accused of doing so because the Mormon Church so directed. Why is it not reasonable that other legislators were actuated by Mr. Wilson's motives in the matter?

5. O. W. Powers complained because Mormon voters did not support Senator Rawlins in 1895, yet Mr. Powers supported Mr. Thatcher as against Senator Rawlins. Why are not other voters actuated by Mr. Powers's motives in the matter?

6. E. B. Critchlow supported legislators for Senator Smoot in convention and campaign. When Reed Smoot was elected United States Senator, Mr. Critchlow tried to undo his own work.

7. E. B. Critchlow, in sympathy, supported Moses Thatcher for United States Senator. Mr. Thatcher was an apostle, a polygamist,

and probably living in unlawful cohabitation, and had not obtained "consent." Mr. Critchlow, however, is opposing Senator Smoot, who is an apostle, but not a polygamist, and, of course, is not living in unlawful cohabitation.

8. Senator Smoot could not have been elected without general Gentile Republican support. A few persons now wish to undo what a great majority of the voters of Utah did.

9. Gentile Republicans elected the general Democratic ticket in Salt Lake City in 1903. A few persons desire the United States Senate to believe that the Mormon Church accomplished this result.

There are some points that have been emphasized during this hearing to which we invite attention, namely:

SHOULD SENATOR SMOOT REPORT HIS BRETHREN WHO ARE LIVING IN UNLAWFUL COHABITATION?

There is a legal distinction between the active and passive participation in crime. If one actively encourages crime he is an accessory, and is usually punishable by the law. If he is merely passive, he is not an accessory, and is not punishable by law, but it is merely a moral question, and we here discuss both phases of this question.

A may see two men fighting in the street. He does not wish to mix in the brawl himself, and so passes by. A has violated no law, no legal obligation, by not mixing in the brawl and separating the combatants. He may commit a moral breach of good citizenship by so doing. This is a question that we will not discuss at this point. A, on the other hand, encourages two men to fight. This is wrong, legally and morally, and he should be punished for it.

A knows of his neighbor attending houses of ill fame, and therefore has good reason to believe that he is committing adultery, but he does not make complaint to the family of the violator, nor to the violator. Is A, under such circumstances, guilty of any violation of law or legal duty? A, on the other hand, encourages this same person to commit adultery. In that case he is a violator not only of morals but of law. The distinction is well pointed out in 98 United States, page 167, *Reynolds v. United States*. In that case it appears that, in the celebrated English case of *Regina v. Wagstaff*, parents neglected to call in a physician to attend their sick child because of religious belief, and the child died. The jury was instructed to acquit if the parents, in good faith, religiously believed that a doctor should not be called in.

On the other hand, it was held that if the parents did the affirmative act of omitting to feed the child as a matter of religious belief, that then they would be guilty if the child died in consequence of such neglect. The English case, reinforced by the opinion of the Supreme Court of the United States, establishes the distinction between mere passive knowledge of offenses against law and the active encouragement of offenses against law; so that, as a legal duty, Smoot was under no obligation whatever to complain either of the members of his quorum or of the brethren in his church who violated the law of unlawful cohabitation. It is wrong for a man actively to encourage another to commit fornication, or adultery, or to gamble, or to fight, or to murder. It is wrong if Smoot encouraged people to go into polygamy or to commit the offense of unlawful cohabitation; but is his mere knowledge and passive conduct in such matters a breach of legal duty?

The case from the Supreme Court of the United States decisively answers this question. The Powell case also answers this question. It appeared that Lazarus W. Powell was a Senator from the State of Kentucky. It appeared that he held opinions which were directly contrary to that opinion which was necessary to uphold the union of States in our country. But it further appeared that he had done no active work to carry out and execute his mere belief. In other words, he subordinated his belief to his conduct, because the latter was necessary on account of his allegiance to the North. He was allowed to retain his seat because his conduct comported with law, though his belief did not. But it is apparent that if Senator Powell's conduct had not comported with his allegiance to the North, though his opinion had, that he would not have been allowed to retain his seat. (See Senate Election Cases, page 967.)

This, then, brings us to the question of the moral duty of Smoot in the premises. We shall not argue the question theoretically as to whether, morally, Smoot should have complained of the members of his quorum or of the members of his church who he knew violated the law of unlawful cohabitation, or who he had good reason to believe violated the law of unlawful cohabitation. This is a theoretical question and we believe its discussion throws no light upon the decision to be reached in this case. But we shall discuss the practical question of what men do generally, naturally, and reasonably under such circumstances.

Spying and informing, in all ages, have been detested. An officer can spy and inform, because it is his duty, and he is not held in general contempt for so doing; but when private citizens undertake to discharge any such function they are generally and publicly detested and held up to ridicule and contumely. We say practically it was not Smoot's duty to go to the members of his quorum or to the members of his church and complain of them when he had good reason to believe they were violating the law as to unlawful cohabitation. For the purpose of establishing this, we invite the committee's attention to the following matters:

A may know that his neighbor B is gambling, but, as a very general rule, A neither goes to B and complains of it nor does he admonish him to desist. Much less does A either go to B's family and complain, or go to the public officers of the law and complain. This same illustration applies as to A's knowledge that B may be committing adultery; may be committing fornication; or may be breaking any other law. A may see two men fighting and yet pass along and not interfere. This is the practical working of men's minds in the practical affairs of life where others are violating law. A and B may belong to the same church, and A may know, or may have the very best reasons to believe, that B is committing a serious infraction either of the law or of his moral duty, and yet A remains quiet; *we* all remain quiet. It is not necessary to push the illustrations to any greater extent.

We now invite the committee's attention to the concrete facts in the case. In the first place, Mr. Critchlow associated with John Henry Smith upon the stump. It appears that they are warm personal friends, but Mr. Critchlow is a non-Mormon, John Henry Smith is a Mormon. Mr. Critchlow stated that he never advised or admonished

John Henry Smith to obey the law as to unlawful cohabitation, although he knew that John Henry Smith had violated and was violating that law. Why did not Mr. Critchlow complain of or admonish John Henry Smith? He did not do so for the very same reasons that A in the above illustrations did not. Mr. Hiles, when on the witness stand, stated that he had been a judge in the State of Utah, was a practicing lawyer, and had been prosecuting attorney in the Territory of Utah for several years, and had probably drawn more indictments for polygamy and unlawful cohabitation than any other man in Utah.

Mr. Hiles took the position that the Mormons were violating the manifesto, that they were violating the law in regard to unlawful cohabitation, and he wanted the committee to believe not only that this is wrong, but also that it was a breach of the manifesto. Mr. Hiles stated that he believed some man that he knew in Salt Lake had gone into polygamy since the manifesto. Senator Smoot's attorneys desired to know the name of this man for obvious reasons; yet Mr. Hiles, a Gentile, an ex-judge, an ex-prosecuting officer, believing the manifesto was being violated, desired not to state the name of this man who he believed had gone into polygamy since the manifesto. Why did Mr. Hiles not give the name of this man? On the very same principle that the above illustrations in regard to A are made, namely, that every man dislikes and detests to be put either in the position of a tattler, informer, or a spy. Yet the protestants complain of Senator Smoot because he does not inform on the members of his own church and on his close and intimate acquaintances and friends; and yet the protestants and the men who stand by the protestants do the very same thing when they have very much less reason for doing so. They have less reason to do so, because they are not members of the same church; they do not have the close and intimate relationship that Senator Smoot has with the members of his quorum.

NEITHER THE ENABLING ACT NOR THE CONSTITUTION OF UTAH PROHIBIT UNLAWFUL COHABITATION.

Mr. Critchlow says that the enabling act prohibits unlawful cohabitation. The substance of the language of the enabling act is that plural marriages are forever prohibited, and Critchlow concedes that there is nothing in the enabling act bearing on the subject further than the language above stated. It is somewhat of important bearing in this case whether this language applies to unlawful cohabitation, because the language is in the nature of a compact on the part of the State of Utah with the National Government, as the language of the enabling act was carried forward in the constitution of the State of Utah. It is susceptible of demonstration that the language of the enabling act does not apply to unlawful cohabitation.

For the purpose of determining the question, there should be taken into consideration the legislation existing before the passage of the enabling act, as well as the decisions of courts, so as to ascertain the meaning of the language used in the enabling act. If it can be shown that there were two offenses, well known in law, before the passage of the enabling act, one defining polygamy and the other defining unlawful cohabitation, then it would seem to be conclusive that if the enabling act only mentions one offense that it thereby excludes the

other. Critchlow concedes that the act of 1862 only punished bigamy or polygamy, and did not deal in any way with unlawful cohabitation. In 1882 Congress passed an act that dealt with polygamy and unlawful cohabitation, and provided separate and different punishments for each offense. Another act was passed in 1887 substantially to the same effect, but punishing, in addition, adultery.

Not only the Supreme Court of the United States, but the supreme court of Utah, in many decisions defined various acts that constituted unlawful cohabitation and in substance it was held that polygamy was the act of marrying more than one wife while the legal wife was living and undivorced. The offense of polygamy was complete without any living together of the husband and plural wife, or without the plural wife in any way being supported by or associating with the husband. In other words, the holding out of the plural wife as such was entirely unnecessary to constitute the offense of polygamy. On the other hand, unlawful cohabitation was the holding out to the public of more than one woman as a wife. The offense of polygamy might be entirely barred by the statute of limitations, but that of unlawful cohabitation could still be punished, and Mr. Critchlow stated that it was difficult to prove the offense of polygamy, and that very often that offense was barred by the statute of limitations, and the only offense left to punish was that of unlawful cohabitation, so that Mr. Critchlow, in his testimony, recognizes that there is a material and fundamental difference between the offense of polygamy and that of unlawful cohabitation.

The Edmunds Act of 1882 and the Edmunds-Tucker Act of 1887 recognized these distinctions. The Supreme Court of the United States and the supreme court of Utah recognized the offenses as separate and distinct, so that before the year 1894, when the enabling act was passed, Congress, by its statutes and the courts by their decisions, well knew of the difference between polygamy and unlawful cohabitation. Mr. Critchlow admits that the difference between polygamy and unlawful cohabitation was well understood by the general public in Utah, so that when Congress passed the enabling act in 1894 it knew, the courts knew, the Gentiles in Utah knew, and the general public knew that there was a fundamental and substantial difference between the offense of polygamy, or plural marriages, on the one hand and that of unlawful cohabitation on the other.

With all this knowledge before it, Congress provided in the enabling act that plural marriages should be forever prohibited, but nothing was said about unlawful cohabitation. Could anything show more clearly that Congress was only exacting a compact as to polygamy and not as to unlawful cohabitation? When the constitutional convention met it appears in its proceedings (vol. 1, pp. 641, 642 et seq.) that the members, such as Mr. Varian, a prominent Gentile, and theretofore a public prosecutor in the courts under Federal appointment, and Mr. Goodwin, editor of the most prominent Gentile paper in Utah, only intended to deal in the constitution with polygamy, or plural marriages, and not with unlawful cohabitation.

Mr. Varian, in his argument, went so far as to refer to the offenses of adultery and unlawful cohabitation, and so on, and yet purposely omitted to put any provision in the State constitution regarding those offenses. The constitutional convention was careful to put into the

State constitution a provision against *plural* marriages. The constitutional convention was careful to make the provision self-executing by substantially incorporating into the constitution of the State of Utah a statute passed by the legislature of Utah providing for the punishment of polygamy. When the State constitution came to the President of the United States to be approved, and for the purpose of admitting Utah as a State, it was a matter of common knowledge—it was a matter of record—that the constitution of the State of Utah made a compact as to plural marriages or polygamy, but made no compact as to unlawful cohabitation.

IT IS NOT UNUSUAL FOR MEN TO VIOLATE THE LAWS OF GOD AND MAN.

It appears that some members of the Mormon Church have been living in unlawful cohabitation, which is contrary to the law of the State of Utah and contrary to the rule of that church. While no man is to be encouraged in violating the law of God or the law of the land, and while, on the contrary, he is to be condemned for both, yet it is not unusual that men violate the laws of both. Practically all Christian people believe in the Ten Commandments, and nearly all Christian people believe them to be revelations from God, or believe practically the same thing, to wit, that the Ten Commandments are based on divine inspiration.

All over the land occupied by Christian nations there are people who belong to churches, and many who do not, who believe in these Ten Commandments; and yet there are people in churches and out of churches who so believe who constantly violate some of the Ten Commandments. Some of these Ten Commandments are substantially enacted into laws, and these same men violate these laws. It is a case of our ideals being higher than our practices. A man may believe in the Commandment that prohibits adultery; he may believe in the law of the State which punishes adultery, and yet many such men may violate not only the revelation, but violate the law. It goes without saying that such men are not to be praised; they are not to be commended. There are many men who violate the laws of God and the laws of the land who believe directly contrary to their practices.

The contention has no merit that Senator Smoot is subject to be expelled by a majority vote.

The Federal Constitution, article 1, section 4, provides "Each House may * * * with the concurrence of two-thirds, expel a member."

To give proper meaning to the above provision, it is best to inquire as to the motive that induced the constitutional fathers to insert this clause. In those early times there was considerable jealousy among the different States—that one State should not gain an advantage over another in the matter of representation; in other words, each State wished to protect its rights in the National Government, and to accomplish that end insisted upon a two-thirds vote to expel. If the provision had been that a majority might expel, then the States might the more easily be deprived of their representation, as combinations, corrupt or otherwise, could be formed to expel a member. A majority vote might be successful, while a two-thirds vote would probably be unsuccessful. Therefore, it is reasonable to assume that the two-thirds rule was inserted in the Constitution so as to guard the more

carefully each State's representation. This idea has been expressed by the Supreme Court of the United States. In 6 Wheaton, 233, *Anderson v. Dunn*, it is said:

"The truth is that the exercise of the powers given over their own members was of such a delicate nature that a constitutional provision became necessary to assert or communicate it. Constituted as that body is, of the delegates of confederated States, some such provision was necessary to guard against their mutual jealousy, since every proceeding against a Representative would indirectly affect the honor or interests of the State which sent him."

From the above quotation it is apparent that the States were jealously guarding their honor and interests by providing that their Representative should not be expelled without the concurrence of two-thirds of the members of the House in which he was sitting.

In 1 Story on the Constitution, section 837, in speaking of the power to expel, it is said:

"But such a power, so summary, and at the same time so subversive of the rights of the people, it was foreseen might be exerted for mere purposes of faction or party to remove a patriot or to aid a corrupt measure; and it has therefore been wisely guarded by the restriction that there shall be a concurrence of two-thirds of the Members to justify an expulsion."

This subject is very fully discussed in 1 Story on the Constitution, sections 837 and 838. They are too long, however, to quote in full.

Justice Story refers with approval to the case of John Smith, Senator from Ohio, decided in the United States Senate. This case will be found in the compilation of Senate election cases, from 1789 to 1885, page 934. This case is exactly in point. John Smith was elected Senator from Ohio from October 25, 1803, until he resigned April 25, 1808. In the statement it appears that certain bills of indictment were found in connection with the Aaron Burr conspiracy in the August before John Smith took his seat in the Senate, the latter date being October 25, 1803. The case is very lengthy. There was a long debate on the resolution to expel. Nineteen voted to expel and ten not to expel, and the syllabus of the case says "* * * so that, two-thirds of the Senate not concurring therein, he was not expelled." It will be observed that if a majority had been sufficient, John Smith would have been expelled. This case was decided in the Tenth Congress, first session in 1808.

Keeping carefully in mind the reason for the constitutional provision, it is apparent that it is just as logical to require a two-thirds vote to expel a member for a crime that was committed *before* taking his seat as there is for a crime committed *after* taking the seat.

Suppose A commits an offense against the laws of the United States after his election to the United States Senate. In such case Mr. Tayler concedes that it would take a two-thirds vote to expel. Suppose, on the other hand, the same member had committed the same offense before taking his seat. In that case Mr. Tayler argues that such Senator might be expelled by a majority vote, because the objection existed at the time of taking the seat. The only difference in the two cases is time; there is no difference in reason.

There is a substantive difference between a constitutional ineligibility on the part of a man to be a United States Senator and a mere personal

objection, and the two principles should be kept distinct in the mind. Suppose A is elected to the United States Senate and is not a citizen of the United States. In that case there is a constitutional ineligibility. Such person may take the Senatorial oath and take his seat, yet it is evident that such person, while he may be for the time a Senator *de facto* he is not a Senator *de jure*, because he has not the necessary requirements. In such case it appears entirely reasonable that a majority vote could oust him.

But suppose A is constitutionally eligible to be elected a United States Senator, and is so elected. Further, suppose that A at the time of the election has such personally offensive habits as to be intolerable to decent men. Nevertheless, suppose A presents himself to the United States Senate and takes the oath and enters upon the performance of his senatorial duties, and then these intolerably offensive habits are discovered. In the latter case the objection to A existed at the time of his election. Who, except Mr. Tayler, would contend in such case that A could be expelled by a majority vote? The constitutional reason that a two-thirds vote shall be required to expel a member applies with full force in such case; in the latter instance the Senators may waive or not the objection to the personal habits of A. Under the Constitution, however, they would not have the power to waive A's constitutional ineligibility, as this, in effect, would override the Constitution.

Senator Smoot was constitutionally eligible to be a United States Senator at the time of his election. When he took the oath of office and entered upon the performance of his official duties he was still eligible under the Constitution. In argument, however, an objection is made to Senator Smoot for *one* alleged reason. Even if it were established as true, the United States Senate has the *power* to ignore it, and to allow Senator Smoot to retain his seat. The United States Senate may do this because it has the power to pass on the qualifications of its own members; but if Senator Smoot were not a citizen of the United States the Senate would not have the power to waive *that* requirement, and could not waive it, unless it should arbitrarily override the express provision of the Constitution.

If the constitutional fathers intended that a member should be expelled by a majority vote when the objection existed at the time of his election, then a provision would have been inserted in the Constitution to that effect. The fact that there is no such qualification or exception should be conclusive against Mr. Tayler's contention.

Senator Smoot, under the evidence in this case, should be encouraged in the stand he has taken in Utah, and in my opinion should retain his seat.

The evidence shows, without contradiction, that Mr. Smoot could not have procured the nomination of the legislators who supported him in the different conventions unless the Gentiles had given him support; and those legislators could not have been elected if the Gentiles had not supported the Republican ticket. Senator Smoot encouraged the veto of the Evans bill.

Senator Smoot also encouraged the State superintendent of public schools in his position to keep the religion classes out of the public schoolhouses. Senator Smoot has always been opposed to the practice of polygamy; he is independent in politics; he does not believe in the

church being in politics; he is exemplary in character and life. Mrs. Mary G. Coulter was born and educated in the East, and has never been a member of the Mormon Church. She graduated in law at Ann Arbor, Mich., and has been admitted to the supreme court of Michigan. She has lived for many years in Ogden, Utah. She was elected as a Republican to the legislature, went there unpledged, and supported Reed Smoot for United States Senator. In speaking of Senator Smoot's candidacy she said, in volume 3, pages 173-174:

"MRS. COULTER. Possibly with Mr. Smoot as a candidate it would have made no difference with my vote, for this reason: Many Gentiles in Utah welcomed the opportunity of proving, in an efficient and practical way, to our Mormon friends that we were not generally antagonistic to Mormonism, but that our antagonism was directed altogether toward the church doctrine, which in Utah is known as the principle of polygamy—something a great many of us are not able to understand, the principle of polygamy. The two words do not seem to be at all consistent; and in supporting the candidacy of Senator Smoot it was the feeling of many of us that we were saying substantially to the Mormon people: 'If you will put up a good clean man who does not advocate nor practice polygamy, we will sustain him, irrespective of wide church differences or religious differences.' The thought was that if the Mormon people will put up a representative, up-to-date, enterprising, capable man, who is fairly well qualified, we will support him, but we will not support polygamists."

It is statesmanship to give encouragement to Senator Smoot. A member of the Mormon Church who is a monogamist, who desires to have the law upheld, who is representative of good citizenship, should not be deprived of his Senatorship because he is a high officer in that church. If he is, it will smack too much of unfairness, of persecution, and of injustice. It is apparent that if Senator Smoot should be unseated it would tend to solidify the Mormon people, and they might very reasonably conclude that they are only fit to vote for United States Senators—not fit themselves to be such.

To drive Senator Smoot out of the United States Senate means, logically, that no Mormon can occupy that position. E. B. Critchlow has given us his opinion, as above stated, that a lay member of the Mormon Church is as much subject to be controlled as is an apostle. To take such a course naturally tends to make the Mormons a compact mass on the one side, as against Gentiles on the other; it also tends to accomplish all that the Gentiles of Idaho in the election of 1904 so emphatically repudiated.

The legislators who voted for Senator Smoot could not have been nominated, nor could they have been elected, without the support of Gentile Republicans. Shall a very small minority undo the work of the great majority of Republican Gentiles and Mormons?

Second. What is the legal consequence as to Senator Smoot if the Mormon Church should exert an influence in political affairs?

In 98 U. S., 162, *Reynolds v. United States*, it is said:

"Congress can not pass a law for the government of the Territories which shall prohibit the free exercise of religion. The first amendment to the Constitution expressly forbids such legislation. Religious freedom is guaranteed everywhere throughout the United States, so far as Congressional interference is concerned. The question to be

determined is, whether the law now under consideration comes within this prohibition."

In 3 Howard (U. S.) 589, *Permoli v. Municipality No. 1*, it is decided that the political right to religious liberty provided for in a certain ordinance and certain act of Congress ceased when Louisiana was admitted into the Union, and that if such right existed it was under the constitution of the State alone.

See also the authorities cited in the early part of this argument, which are to the same effect.

The Congress, therefore, is without constitutional power to legislate on such an assumed evil; consequently, it would not expel for a matter about which it is powerless to legislate.

Mr. Chairman and gentlemen of the committee, I appreciate very much the thoughtful and careful attention that I have received, not only during the whole hearing, but during the time I have been engaged in this argument.

Senator FORAKER. Before you take your seat, what do you claim the testimony shows as to the division in politics in Utah between the parties? Or was there testimony on that point with any definiteness?

Mr. VAN COTT. The testimony shows that there are more Mormon Democrats than Mormon Republicans.

Senator FORAKER. To what extent?

Mr. VAN COTT. I have not that in mind. I will look it up in the record and put it in the brief; but I do not remember at this time.

Senator FORAKER. What does the testimony show as to the legislators who voted for Senator?

Mr. VAN COTT. It shows that the majority of them are Mormons.

Senator FORAKER. To what extent?

Mr. VAN COTT. I could not tell without going through the records to discriminate.

Senator HOPKINS. That you will present in your brief?

Mr. VAN COTT. Yes; we will do that on both points.

The CHAIRMAN. I think the membership of the legislature was stated to be—

Senator FORAKER. Sixty-nine, I think.

Mr. VAN COTT. Sixty-three in Utah and 69 in Idaho.

The CHAIRMAN. And about 20 Gentiles?

Mr. VAN COTT. I do not remember.

Senator BEVERIDGE. How many of the Gentiles voted for Senator Smoot? About a third?

Mr. VAN COTT. I think nearly every Gentile Republican in the legislature, as I remember, voted for Mr. Smoot. Mr. Smoot would know better than I would.

Senator BEVERIDGE. You say the Republicans, both Gentile and Mormon, voted for Senator Smoot, and the Democrats, both Gentile and Mormon, voted for somebody else. Is that it?

Mr. VAN COTT. Yes, sir.

Senator BEVERIDGE. You mean to say there was no division line as respects the church?

Mr. VAN COTT. No, sir; there was not.

Senator FORAKER. How many female members were there in the legislature?

Mr. VAN COTT. If I remember correctly, only one. Mrs. Coulter

was the only female member of the legislature, and she went there unpledged.

Senator McCOMAS. And voted for Mr. Smoot?

Mr. VAN COTT. And voted for Mr. Smoot.

Senator FORAKER. For whom did she vote?

Mr. VAN COTT. She voted for Mr. Smoot, and she went unpledged. She was a Gentile, born and reared in the East.

Senator OVERMAN. Was she from Salt Lake or a Mormon community, or was she from a Gentile community?

Mr. VAN COTT. She is from Weber County, where it is just about even—about half Mormon and half Gentile.

Senator BAILEY. You said that a majority of the Mormons are Democrats?

Mr. VAN COTT. Yes, sir.

Senator BAILEY. Is it not also true that a majority of the church officials in Utah are Republicans?

Mr. VAN COTT. Yes, sir; that is true.

Mr. WORTHINGTON. You mean the high church officials?

Mr. VAN COTT. The high church officials. The majority of them are Republicans, and the majority of the Mormon people are Democrats.

Senator Foraker and Senator Beveridge inquired about the per cent of Mormon Republicans and Mormon Democrats in Utah in the general election of 1902; also inquired as to the number of Mormon Republicans and Gentile Republicans in the legislature in which Senator Smoot was elected; and also the number of each that voted for Senator Smoot.

The record is silent on these points. Consequently I wired to E. H. Callister, a Mormon Republican, who is well posted in political affairs in Utah, and he answers that in that legislature there were 35 Mormon Republicans and 17 Gentile Republicans, 8 Mormon Democrats and 3 Gentile Democrats; 35 Mormon Republicans and 11 Gentile Republicans voted for Senator Smoot; 6 Gentile Republicans voted for Governor Heber M. Welles, a Mormon.

Mr. Callister has not furnished the other part of the information, hence I express my own opinion that in 1902 the per cent of Mormon Republicans would be about 45, and the per cent of Mormon Democrats about 55; and now there are about half and half.

The CHAIRMAN. Mr. Worthington, the committee will now hear you.

ARGUMENT OF A. S. WORTHINGTON.

Mr. WORTHINGTON. Mr. Chairman, I wish at the outset of my argument to express my profound appreciation of the fact that it is impossible for me to present such an argument at this time and in this case as the committee is entitled to have at the hands of counsel. The long time that has been taken in the preparation of the evidence, and the fact that during the last few weeks my associate and I have been constantly engaged in arranging the evidence to be offered, has prevented us, until the testimony had actually closed, from so much as considering even the question of the points of the argument and how they were to be presented.

I would like to say, as preliminary to the argument in this case, that I have been greatly impressed with the contrast between the proceedings in the case when an officer of the Government is to be impeached by the Senate, or before the Senate, even though he may be an officer so comparatively unimportant as a district judge of the United States, and the proceedings which are provided in case one who is a member of the highest legislative body of this great nation is called to an account. When a district judge is impeached there is a carefully prepared indictment, setting forth exactly what he is to meet, and that he is called to respond in the Senate of the United States, with his counsel, and there the witnesses are heard before the assembled Senate, the presiding officer, as he did the other day, carefully reminding Senators that it is very important that they should all be present and hear the testimony and see the witnesses. And I see that you have carefully provided rules for the conduct of such an investigation as that, and have provided that counsel may be there to make objections, and that if any Senator wishes to ask a question he shall reduce it to writing and it shall be handed to the presiding officer and asked by him; and that if any objection is made to testimony, while the presiding officer shall rule upon it in the first place, it may, upon his motion, or upon the request of any Senator, be submitted to the entire Senate.

Yet, in the case in which a Senator is to be visited, if he be found guilty, with punishment like that which shall be inflicted upon the judge, of being turned out of his office, we find that we are here, as we found, and as Senators have found during the progress of this case, compelled to scramble through a record of nearly three thousand printed pages to find out what the issues are which we are trying, and that, in all probability, if every member of the committee should be asked the question, no two of them would agree as to precisely what the issues are. And we find that, while the testimony has been taken and reduced to print, the great mass of it has been heard by very few Senators, and that even on one occasion there was but one Senator present, the distinguished chairman of this committee, and when he

was called out of the room for a moment, he intimated that we might go on in his absence; which we did not do.

I make this suggestion in no spirit of complaint or faultfinding, but as bringing to the attention of the committee, and I might hope of the Senate, a question of importance, not only in the determination of this case, but of all like cases, hereafter, because Senator Smoot is to be tried and his case decided by a tribunal not one-tenth of which has seen any of his witnesses or heard any of them testify. We all know how exceedingly important it is, in determining what weight shall be attributed to the testimony of a witness, to see him and to hear him. I have in mind some witnesses in this case whose testimony reads as though it might be credible, when I do not believe any Senator who heard the witnesses would believe them for a single moment.

The slightest examination of the record will also show that unlike, I should suppose, the proceedings in the impeachment of a judge or other officer of the United States, we are practically without rules of evidence, because, as was stated several times in the progress of the case, this is not a trial at all, but an investigation, and the committee has the right to inquire for hearsay evidence, because A may tell that B told him something, and B may say that he got it from C, and so we may lead to the original evidence. When my associate undertook to argue that in that way the record would be filled with matter which might come before members of the Senate who are not lawyers and who would not be able to distinguish between legal and illegal evidence, we were told that that was a matter which had become so well settled in the practice of the Senate that we would not be allowed to further argue it.

So that we are here before a great tribunal in which a defendant is called upon to respond to charges so serious that they may evict him from the Senate of the United States—and no greater punishment could be inflicted upon an honorable man, a man with any sense of the proprieties or honors of life—and his counsel are called upon to argue the case for him, upon a record which contains evidence nine-tenths of which we believe is not competent and may not be considered, and yet we do not know what may be in the minds of even members of the committee on that subject, much less in the minds of other members of the Senate who probably have not yet considered it.

Under all these difficulties I proceed to consider the questions which seem to arise in the case, guessing as to some of them, and having probable ground as to the others.

Now, in the first place, and at the forefront of this case, there lies a question, which even if I had had the time to prepare for it, I should doubt my ability to properly present it to such a tribunal as this, and I am going to say very little about it in this argument, and that is the question which arises as to the grounds upon which Senator Smoot may be expelled from the Senate at this time, he having been duly admitted to office, and having been sworn in and taken his seat, and as to the grounds in any case, whether they be made as an objection before a Senator is sworn or after he is admitted, upon which the Senate would proceed.

Of course it has the power to proceed upon any ground, but we all assume, as has been done here so far in this discussion, and everybody will assume that the committee and the Senate will act judicially in the matter and not arbitrarily.

The whole learning on this subject, so far as I have been able to ascertain, is gathered up in two places. One is where my friend, Mr. Tayler, as the chairman of a special committee of the House of Representatives, investigated the question of the right of Brigham H. Roberts to a seat in the House of Representatives, where there was a majority report and a minority report on the questions that were involved there. With that you are all familiar.

There is another case with which Senators may not be so familiar, because it has not found its way into the compilation which I have seen, and that is the case of Roach.

Roach was at one time the cashier of the Citizens' Bank of this city, and it was charged, and apparently never denied, that he had embezzled, while cashier, about \$30,000 of the bank's money. His friends or relatives settled with the bank and he was never prosecuted. He went to North Dakota, and after a while he came back as a Senator from that State and was admitted and took his seat without objection. Afterward in some way the question was raised that he should not be entitled to his seat, and great discussion took place then as to whether it was a case in which the Senate had any power to act at all, because it was a crime that he had committed before his election.

That matter was discussed by the leading lawyers of the Senate on both sides, and all the authorities were gone over there, with the result that a resolution to refer the matter to the Committee on Privileges and Elections was never passed upon at all, and he served out his term. (Vol. 25, Part 1, Cong. Record, 53d Congress, special session, pages 37, 111, 137 to 162.)

I would also like to refer for just one moment to the celebrated case in England of John Wilkes.

Many years ago Wilkes, while a member of the House of Commons, libeled the King and was expelled from the House of Commons for that offense. His constituency immediately reelected him, and the House refused to receive him on the ground that a man who had been expelled was not a fit man to sit there. His constituency sent him back once more, and again the House refused to receive him; he was again sent back, and again the House refused to receive him. So it went on, as I remember, for about fourteen years, when at last the House came to the conclusion that his constituency had a right to be represented in the body, and he was admitted to his seat. Thereupon annually for several years afterwards he moved that all the previous resolutions of the House to the effect that he was not entitled to have a seat therein should be expunged. Finally that motion was carried; and the clerk of the House, on its table and in the presence of the assembled House of Commons, expunged all the previous resolutions to the effect that a member who represented his constituency could be expelled from his seat because the House at some prior time had adjudicated him to be unfit for his seat. As the resolution of expulsion expressly stated, this was done, not because the orders of the House which were obliterated were in derogation of the rights of Wilkes himself, but because they were "subversive of the rights of the whole body of electors" of England. (Paine on Elections, 872-878.)

And I ask this committee to remember that you have here not merely the question of whether Reed Smoot shall be entitled to retain his seat, but as to the right which a sovereign State—Utah—has in the selection of persons to represent it here, and whether it may be said

that for causes which lie back of his election and which were known to his constituents, he shall be expelled.

If Mr. Tayler's present contention on this point should be sustained it would come in the end to this, that instead of the States of this Union having the right to select the men to represent them in the United States Senate they would have the right merely to nominate candidates for the office, who would be admitted only after obtaining the advice and consent of those who were already here.

There is one case, too, in this country to which I wish particularly to direct the attention of the committee. That is the case of George Q. Cannon, a polygamist, who, while a polygamist and living in polygamy, was sent to the House of Representatives as the Delegate of the Territory in the House, and attention being called to the fact that he was a polygamist, it was undertaken to expel him on that ground. The House, by a very large majority, a very few members voting to the contrary, decided that notwithstanding he was a polygamist and was living in polygamy, the fact that he had been admitted to a seat and was sitting there precluded the House from taking any action in reference to expelling him. That is all set forth with great strength and with approval by Mr. Tayler in the Roberts case, as affording an instance of the danger of letting Roberts take his seat, because then there could not be taken into consideration anything that had happened before his election, and it would require a two-thirds vote to expel him instead of a vote of the majority only.

Mr. Tayler has suggested and argued here that a majority vote only could be required on the ground that the question is as to the qualifications of Senator Smoot, and that you can take into consideration other qualifications than those fixed by the Constitution itself. But when he came to his argument, he urged that you should not allow Reed Smoot to take his seat because of things that have happened since he took his seat—not since the election merely, but since he took his seat, aye, since this inquiry began; and perhaps the part of his argument upon which he laid the most force and strength was that since this investigation began, and since Senator Smoot learned certain things from the testimony of witnesses here, he had not done certain things.

Now, it would be a remarkable thing if this committee of the Senate should come to the conclusion that when the State of Utah selected this man as one of her Senators, and when the Senate admitted him to his seat, he was not qualified, and established it by facts that have happened since he came into the Senate.

There is one other matter of law to which I wish to call attention, because my friend's argument on that subject astonished me. He stated as one of the reasons why Senator Smoot should not be allowed to retain his seat that Utah was admitted as a State upon a condition relating to polygamy and that she has not complied with that condition.

Yet, on the day when, by the request of this committee, we appeared here to state in a preliminary way our respective claims, I undertook to refer to that matter, and I said that if that condition was to be contended for, then the State of Utah was a necessary party to the proceeding. (Vol. 1, p. 56.)

Mr. TAYLER. Excuse me one minute. I did not make any such claim in my argument—that on account of the constitution the State was not entitled to representation.

Mr. WORTHINGTON. Mr. Tayler may not have intended to say that, but it conveyed that meaning to my mind, and to those associated with me in the conduct of this case.

Mr. TAYLER. I was referring to the plea for amnesty, if you will excuse the interruption.

Mr. WORTHINGTON. I understood the reference to the plea for amnesty, but I understood also, or I think I did, that he referred to the condition upon which Utah was admitted as a State.

Mr. BEVERIDGE. That condition would exclude any Representative, Gentile or Mormon.

Mr. WORTHINGTON. Any Representative, Gentile or Mormon, and it would be an issue which, as I respectfully submit, could not be raised except where Utah was a party, and then it could be raised only in some proceeding in which the House of Representatives, as well as the Senate, of the United States would be a party. The State would have to be called to account, to answer as to whether it had violated this condition, and then if it was found that it had, the question of what could be done with it would arise. So far as I am concerned I find no fault with what the late lamented Judge Wilson said might be done with the State if it violated that condition; and for no man will I stand here and say that the State can violate that condition and still be represented in the Congress of the United States.

OATH OF VENGEANCE.

I proceed now to consider the obligation which Senator Smoot is charged with having taken, which is said to be inconsistent with his Senatorial oath.

I had supposed, until Mr. Tayler took his seat at the close of his argument, that he would discuss this question of the alleged obligation, but whether by oversight or by design he has so stated his position that we must suppose he stands now where he stood when this investigation was begun. Over and over again, when we were making our preliminary statements here, and afterwards in the early stages of the taking of testimony, Mr. Tayler stated in the most explicit terms not merely that he withdrew the charge that Senator Smoot was under such an obligation, but that he never had made it; and one of the honorable members of this committee, Senator Dubois, in the course of a colloquy between counsel and the committee which took place then, said: "Such a charge has never been made, and counsel for the respondent are trying to put the counsel for the protestants in a position which they never took." (1, 126.) How then does it come that without a charge, without an issue, witnesses are brought here to testify to a thing which we were not to be called upon to meet?

Why, it happened in this way: After counsel had finished examining Apostle Lyman, the chairman of the committee asked him whether he had ever taken the endowment ceremony, and when he stated that he had, called upon him to tell what it was, which he declined to do. (1, 436.) Several other witnesses who were brought here on behalf of the protestants were asked the same question, always, as I recollect it, by the chairman, and they all refused to disclose the endowment ceremony. After that had all been done, then three witnesses were brought here (Wallis, Lundstrom, and Mrs. Elliott), all of whom testified to having taken these covenants, and to a certain obligation which

involved hostility to the United States. I am not going to go over that testimony. I have it all here, every reference to it in the testimony, including the discussions as to whether it was an issue or not. Every word that fell from the lips of those three witnesses on the subject is referred to, and the testimony of ten witnesses, five of them called by the protestants and the others by us, all of whom had taken the covenants, and every one of whom denied that there was anything of the kind in the ceremony.

On that point I desire simply to say that my position as to their refusal to disclose the nature of that ceremony is that which I understood to have been taken by a member of this committee when the question was up with Mr. Roberts.

I asked him, after some other questions had been asked him, whether the obligation related to things spiritual or things temporal, and Senator Bailey said:

"I do not think it makes any difference to the committee in the end, or will affect its conclusion, whether that is answered or not. I am partly responsible for that line of questions, and I asked the first question myself, because I really intended to insist, if it related in any way to the duties of a citizen, that the committee was entitled to know what that was, and if it did not, then I had no further interest in it." (1, 745.)

The committee will see, from the notes I shall give of what took place in reference to this matter, that after a number of witnesses had been asked the question as to whether there was anything of this kind in the ceremony, and had most positively and emphatically denied it, Colonel Young, a Mormon and an ex-officer of the Army, was upon the stand. I asked him the question whether there was any such obligation as these three witnesses had testified to, and he said that before answering that question he wanted to know whether, if he entered into the subject at all, he would be required to disclose the whole ceremony.

After a long argument, which is referred to in the notes, it was decided that if he undertook to say what was not in that ceremony; if he said there was nothing in it that referred to the nation, nothing in it that referred to or affected the question of his loyalty to his Government, then he would be called upon to testify as to the whole ceremony.

Now, in the presence of the full committee I most respectfully protest against that ruling and against the effect that it had in stopping the inquiry being made by us of any further witnesses upon that question, because I maintain that the law is, and that the law ought to be, that if a man states that in a certain ceremony, in a certain conversation, or in any place where he was, and where anything has taken place, there was nothing whatever said on a certain subject, it is not in the power of any tribunal investigating a case where only that thing is under consideration to require him to disclose everything that took place down to the most solemn covenants that a man can make with his Creator.

I should like to ask, if a Senator were a member of the order of Masons or of the Odd Fellows, or of numerous other societies to which many of our people belong, and I should prefer the charge against him before the Senate that the obligation of the Mason or the Odd Fellow, or whatever it might be, is one which imputes to him disloyalty to his country, and he should be brought before the bar of this committee

and should say there is nothing whatever on the subject, whether he would feel, any more than these Mormons have felt, that he was compelled to disclose the whole ceremony.

But suppose that the respondent did take such an obligation. Suppose that when Senator Smoot was a boy, as he testified—and there is no other evidence on the subject—his father, who was a religious man and who was going to the Sandwich Islands, said: "My lad, I want you to go with me, but before going I would like you to take your endowments," and the boy said, "I don't care anything about it, father." His father said, "Well, it can't do you any harm; you had better do it;" and he did it on the theory that it could not do any harm even if it did no good.

He testified he went through the ceremony when he was only 18 years of age, and he could not tell the ceremony, or much about it, if he wanted to. He was sure there was nothing in it that in any wise referred to hostility to his country, or he would never have gone through it. But suppose that in going through that ceremony he had taken an oath, in the language of these three witnesses—in regard to whom, in view of the testimony, I have hard work to speak with respect.

Suppose he had taken the obligation to invoke high Heaven to visit the blood of the prophets upon this nation, and suppose when he was elected Senator he was confronted with the proposition that "If you would come into this Senate you must first, without any mental reservations, take an oath which binds you to defend your country, the United States, against all enemies; will you take it?" And suppose he says, "Yes, I will take it, and without any mental reservation." I should say that if there was anybody to complain about that situation it was the Mormon Church and not the United States, because, having taken an obligation to the church he had renounced it, just as a man comes here from some foreign country and wants to become a citizen of the United States, and all he has to do after showing that he has the necessary qualifications is to say that he renounces his allegiance to that foreign country and will defend the Constitution of the United States.

I made last night what was to me a curious discovery on this subject and one which I think will throw a flood of light upon the testimony of such witnesses as Mrs. Elliott. I will not now go over the testimony which shows they are unworthy of belief, but will put that into the printed argument.

I have here a work which nobody will claim was ever written with any view of helping the Mormon Church. It is Linn's Story of the Mormons, which, in every page of it, is bitterly vindictive against the Mormon people and the Mormon Church; and I find this on page 430:

"On the 31st of December a counter memorial against the admission of the Mormon State was presented by Mr. Underwood, of Kentucky, a Whig. This was signed by William Smith, the prophet's brother, and Isaac Sheen (who called themselves 'the legitimate presidents' of the Mormon Church), and by twelve other members. This memorial alleged that 1,500 of the emigrants from Nauvoo to Salt Lake City, before their departure from Illinois, took the following oath":

Now, mark you, the prophet, with his brother Hyrum, had just been murdered at Nauvoo. I say "murdered," because that is a matter of

history. They had surrendered to the protection of the governor of the State of Illinois, who had left them with insufficient military protection and the mob broke into the place where they were and murdered them in cold blood. This memorial charged that shortly afterward—

“Fifteen hundred of the emigrants from Nauvoo to Salt Lake City before their departure for Illinois took the following oath:

“You do solemnly swear in the presence of Almighty God, his holy angels, and these witnesses, that you will avenge the blood of Joseph Smith upon this nation, and so teach your children; and that you will, from this day henceforth and forever, begin and carry out hostilities against this nation, and keep the same a profound secret now and forever. So help you God.”

So that you will see there was in this publication the precise oath which this man Wallis and the others all testified to as well as they could recollect it, not having it before them to read from it, as an oath that had been taken by a certain number of Mormons shortly after the murder of their prophet—an oath which had nothing whatever to do with the endowment ceremonies.

This man Wallis, when he came here, undertook to testify to that and he first said the oath was to avenge the blood of the prophets upon the inhabitants of the earth. After having a night to reflect on it, he came back the next morning and said “No, it was against this nation.” That is the kind of evidence that is relied upon to show that Reed Smoot took an obligation which bound him to eternal hostility to the Government of the United States.

As to this endowment ceremony, Mr. Tayler says those who refused to give it (availing themselves, as I respectfully maintain, of their right to refuse to reveal it), did so because they had an order from the Almighty to that effect.

From the beginning to the end, as we shall see in a moment, and as you heard this morning, his whole contention finally comes down to this, that these people ought not to be allowed to have one of their members or representatives in this Congress, or one of their high officials, at least, because they believe in God and in communion with Him; but he said the reason these men did not answer as to this whole ceremony was because they had been ordered by God not to do it—that they thought they had. Not a single one of them gave that reason for refusing. Every one of them said he refused to reveal it because of a moral obligation he felt himself under not to do so, and that there was nothing in the ceremony relating to the matters that were before this committee. Not one of them referred to any command from the Almighty or from any one else except, as he stated, he promised, when he went through the obligation, that he would not reveal it.

That is all I care to say, Mr. Chairman, upon the question of this obligation, this issue which has been brought in here when everybody whom we had supposed made the charge had disowned it and said it was not made and never had been made, and I address myself now—

Senator HOPKINS. Before you leave that point, in your printed argument, as I understand it, you will tabulate the number of Mormons who claim there is nothing in the ceremony to that effect?

Mr. WORTHINGTON. I will. I have it already here, Mr. Chairman, to put into the record, and will give a reference to every witness who testified on the subject.

Senator BEVERIDGE. And will you also give a reference to the point where it is stated that this oath, as you say, is no part of the endowment ceremony?

Mr. WORTHINGTON. I shall do it by the testimony of ten witnesses that nothing like that is in the endowment ceremony.

[The statement referred to is as follows:

Toward the close of the protest signed by W. M. Paden and seventeen others, the protest, rather by way of deduction than by a formal charge, concludes: "We submit that however formal and regular may be Apostle Smoot's credentials or his qualifications by way of citizenship, whatever his protestations of patriotism and loyalty, it is clear that the obligations of any official oath which he may subscribe are and of necessity must be as threads of tow compared with the covenants which bind his intellect, his will, and his affections, and which hold him forever in accord with and subject to the will of a defiant and lawbreaking apostolate." (1, 25.)

The protest signed by John L. Leilich alone, which has been abandoned, made the following charge:

"That the oath of office required of and taken by the said Reed Smoot, as an apostle of the said church, is of such a nature and character that he is thereby disqualified from taking the oath of office required of a United States Senator." (1, 28.)

In reply to these charges, the respondent in his answer said:

"As to the charge that the respondent is bound by some oath or obligation controlling his duty under his oath as a Senator, the respondent says that he has never taken any such oath, or in any way assumed any such obligation. He holds himself bound to obey and uphold the Constitution and laws of the United States, including the condition in reference to polygamy upon which the State of Utah was admitted into the Union." (1, 31.)

After this matter had been referred to the Committee on Privileges and Elections, counsel were informed that it was deemed expedient by the committee to request the protestants to appear and advise the committee in a general way of the testimony intended to be submitted in support of the protest, and the legal contentions connected therewith, and that counsel for the respondent should advise the committee what part of the contention of the protestants' testimony it was proposed to controvert. (1, 40.)

Thereupon Mr. Tayler, counsel for the protestants, read to the committee a certain written statement of what the protestants intended to prove. (1, 42, 43.)

This statement (omitting the discussion which proceeded as it was read to the committee) was as follows:

First. The Mormon priesthood, according to the doctrine of that church and the belief and practice of its membership, is vested with, and assumes to exercise, supreme authority in all things temporal and spiritual, civil and political. The head of the church claims to receive divine revelations, and these Reed Smoot, by his covenants and obligations, is bound to accept and obey, whether they affect things spiritual or things temporal.

Second. The first presidency and twelve apostles, of whom Reed Smoot is one, are supreme in the exercise of this authority of the church and in the transmission of that authority to their successors. Each of them is called prophet, seer, and revelator.

Third. As shown by their teaching and by their own lives this body of men has not abandoned belief in polygamy and polygamous cohabitation. On the contrary--

(a) As the ruling authorities of the church they promulgate in the most solemn manner the doctrine of polygamy without reservation.

(b) The president of the Mormon Church and a majority of the twelve apostles now practice polygamy and polygamous cohabitation, and some of them have taken polygamous wives since the manifesto of 1890. These things have been done with the knowledge and countenance of Reed Smoot. Plural marriage ceremonies have been performed by apostles since the manifesto of 1890, and many bishops and other high officials of the church have taken plural wives since that time. All of the first presidency and the twelve apostles encourage, countenance, conceal, and connive at polygamy and polygamous cohabitation, and honor and reward by high office and distinguished preferment those who most persistently and defiantly violate the law of the land.

Fourth. Though pledged by the compact of statehood and bound by the law of their Commonwealth, this supreme body, whose voice is law to its people and whose members were individually directly responsible for good faith to the American people, permitted, without protest or objection, their legislators to pass a law nullifying the statute against polygamous cohabitation.

Counsel for the respondent were given leave to file a formal answer to these revised charges, which answer begins on page 74 of the record.

It will be seen that in these revised charges the matter of the alleged obligation or oath is not referred to, and accordingly it is not mentioned in the answer to them. (1, 74.)

During the examination of the first witness called by the protestants, Joseph F. Smith, a discussion arose in which Senator Hoar stated that he understood that the committee had reached a conclusion that there were two issues in the case—one whether Reed Smoot had practiced polygamy, which the Senator understood had been abandoned, and that the only other one was whether or not as an official of the Mormon Church the respondent took an oath or obligation that was superior in his estimation and in its requirements upon him to the oath or obligation which he must take to qualify him as a Senator.

Thereupon Senator Dubois stated that both these contentions were set aside entirely and that it was not contended that they would be attempted to be proved by the attorneys representing the protestants. (1, 114.) In the course of further discussion a member of the committee having stated that he never knew until Mr. Tayler had stated it that he had abandoned the idea of proving that the respondent had taken an obligation that interfered with the obligations of his oath, Mr. Tayler replied:

"I can not abandon that which I never occupied or possessed."

Senator Dubois added, "He never alleged it." (1, 115.)

On a subsequent day, Senator Beveridge, in order, as he stated, to correct what he thought was a mistake in the popular mind as to what were the charges against the respondent which the committee was considering, said that it had been charged that the respondent was a polygamist, which charge had been withdrawn, and that he had been charged with taking an oath inconsistent with his duty as a Senator, which Senator Beveridge understood Mr. Tayler to say was not a charge that had been withdrawn, but was such a charge as had never been made, and that, therefore, the issue upon which the committee would proceed from that time on, so far as the protestants were concerned, was whether the respondent was a member of a conspiracy.

Thereupon Senator Dubois again stated that no charge had been

made against Mr. Smoot of taking an oath inconsistent with his oath as Senator except the Leilich charge, and that the attorneys for the respondent "have been trying to force the protestants to issues which they themselves have never raised." (1, 126.)

This was the state of the record when the testimony of Joseph F. Smith and several other witnesses had been taken, and the examination of Francis M. Lyman, one of the apostles, was progressing.

He was asked by the chairman to state what the "ceremony is in going through the endowment house." This being objected to by counsel for the respondent, the chairman said:

"One of the charges is that Mr. Smoot has taken an oath or obligation incompatible with his obligation as a Senator. The object of this question is to ascertain from this witness, who went through the endowment house—of course, I know nothing about it—whether any such obligation is taken."

Counsel for the respondent having thereupon stated that they understood that that charge had been expressly disclaimed by counsel for the protestants, the chairman replied:

"Counsel stated that they did not propose, as far as they were concerned, to offer any proof upon that question, but the chair did not understand that therefore the committee was precluded from showing it." (1, 436.)

A little later in the same session counsel for the protestants again stated:

"It is in respect of those two things around which all of this case gathers—polygamy and the direction of the people by the apostolate—and if those two were eliminated this hearing would not be going on here." (1, 463.)

It will be seen, therefore, that so far as the matter of the alleged oath or obligation is concerned, there is no charge pending against the respondent at all, and as to that question he and his counsel must grope through the testimony and conjecture what is the charge upon which he is being tried.

J. H. Wallis, sr., when first called and examined as a witness for the protestants, testified that on several occasions he had taken his endowments in the temple at Salt Lake City, and that, while he did not know whether he had it exactly right, the substance of the so-called "oath of vengeance" is that those who took it promised and vowed that they "will never cease to importune high heaven to avenge the blood of the prophets upon the nations of the earth or the inhabitants of the earth." He added that if his memory served him, he thought that was about right, and that a passage of scripture is quoted from the Revelations, sixth chapter, ninth verse. (1, 79.)

After considering the matter over night, Mr. Wallis the next day testified that in repeating the oath he had made a mistake; that he should have said "upon this nation," instead of "upon the inhabitants of the earth." (2, 148.)

Mr. Wallis also testified that divers fearful penalties were to be visited upon those who should disclose the endowment ceremony. He admitted, however, that for a year before he testified in this case he had been communicating the substance of the alleged oath and penalties to a great many people—Gentiles and Mormons. (148.)

It was shown on behalf of the respondent by two witnesses that

Wallis is a worthless drunkard, not to be believed upon oath, and that he is not mentally sound. (3, 316, 444.)

August W. Lundstrom, another witness for the protestants, testified that he had taken the endowments six times, and that the obligation in question was:

"We and each of us solemnly promise and covenant that we shall ask God to avenge the blood of Joseph Smith upon this nation." (2, 151-153.)

He subsequently slightly varied this statement by showing that the prayer was, "We ask God, the Eternal Father, to avenge the blood of Joseph Smith upon this nation." (2, 161.)

On cross-examination, the witness stated that for several years he had been delivering lectures in Utah, telling about these obligations and the alleged dreadful penalties to be inflicted upon those who violated them. (2, 163.) He also said that in the course of these lectures Mormons had endeavored, both in writing and in conversation, to correct him in the assertion of these matters. (2, 163.)

As to this witness Lundstrom, three witnesses on behalf of the respondent testified that, from his general reputation for truth and veracity in the community in which he lives, they would not believe him on oath.

F. S. Fernstrom, one of these witnesses, also testified that Lundstrom had had trouble with his bishop, growing out of the fact that the latter had loaned him money from the fund raised by the church for the support of the poor, and Lundstrom did not want to pay it back. (2, 1010.)

The other witnesses on this subject were C. V. Anderson and H. J. Hayward. (2, 1013 and 1014.)

Mrs. Annie Elliott, the third and last witness on this subject, testified for the protestants that she had taken the endowments several times, and that during the ceremony "they told me to pray and never cease to pray to get revenge on the blood of the prophets on this nation, and also teach it to my children and children's children," and she stated the penalties of this alleged ceremony in substance in the same language that the other two witnesses on this subject had testified. (2, 189.)

On cross-examination this witness stated in the most positive terms that she had never told anybody about this obligation or the penalties to be inflicted until she told it on the stand, and if Mr. Tayler was examining her from a memorandum informing him what her testimony would be, she did not know where it came from or how Mr. Tayler came to get it. (2, 194.)

In the course of the direct examination of this witness, after she had stated that she was married in Denmark, and that her husband followed her to this country, the following occurred:

"Mr. TAYLER. Is he living now—that is, the husband whom you married in Denmark?

"Mrs. ELLIOTT. No, sir.

"Mr. TAYLER. You lived with him until he died, did you?

"Mrs. ELLIOTT. Yes, sir.

"Mr. TAYLER. Where did he die?

"Mrs. ELLIOTT. Why, in Elsinore.

"Mr. TAYLER. In Utah?

"Mrs. ELLIOTT. Yes, sir.

"Mr. TAYLER. When?

"Mrs. ELLIOTT. In 1897.

"Mr. TAYLER. Did you, after his death, marry?

"Mrs. ELLIOTT. Yes, sir; I married in 1899." (2, 184.)

On her cross-examination, after she had testified that she had left the church in 1897, the following occurred:

"Mr. WORTHINGTON. Was it before or after the death of your first husband?

"Mrs. ELLIOTT. Why, it was after.

"Mr. WORTHINGTON. What time in 1897 did he die?

"Mrs. ELLIOTT. He died in October." (2, 191.)

The committee will be astonished to learn from the testimony of Mr. Jens Christian Neilson that he is the man who was married to this woman in Denmark and followed her to this country; that she lived with him as his wife in Utah down to some time in the year 1899, in which year she obtained a divorce from him; that since the divorce he had been living in Canada, and that the children of the marriage, or some of them, lived with his wife in Utah after she married Elliott, and that Neilson was in constant communication with these children, so that the witness knew when she testified not only that her husband had not died in 1897 and was living in 1899, but that he was living at the time she gave her testimony. (2, 1015-1019.)

The record of this divorce suit was introduced in evidence in connection with Neilson's testimony. (1019.)

I have now referred to all of the evidence in the case in support of the charge that the respondent took an oath or obligation inconsistent with his oath as a Senator.

I will next proceed to give the committee an abstract of the testimony on the other side of this question.

And first, of the evidence of witnesses called on behalf of the protestants.

Mr. Lyman, one of the apostles, speaking of the endowment ceremony, said:

"I remember that I agreed to be an upright and moral man, pure in my life. I agreed to refrain from sexual commerce with any woman except my wife or wives as were given to me in the priesthood. The law of purity I subscribed to willingly, of my own choice, and to be true to all men. I took no oath nor obligation against any person or any country or government or kingdom or anything of that kind. I remember that distinctly." (1, 436, 437.)

Joseph F. Smith (who was recalled after Mr. Lyman's testimony had been finished) was merely asked by counsel for the protestants whether the oath or obligation taken in the endowment ceremony is the same now that it has been for years, and Mr. Smith replied that it was the same, and assented to Mr. Tayler's question that the obligation is one of loyalty to the church, such as is proper to be taken. (1, 484.)

Brigham H. Roberts, being interrogated by the chairman on this subject, after saying that, in this regard, the Mormon Church is, in some of its features, analogous to the Masonic fraternity (1, 741), and that he did not feel at liberty to disclose what the ceremony was, was asked by Senator Bailey if he felt at liberty to state whether or not

there was anything in the ceremony "that abridges a man's freedom of political action, or action in any respect, except in a religious way." He replied that there was not.

On being further questioned on the same subject by Mr. Van Cott, Mr. Roberts said that there was absolutely nothing in the ceremony that in any way binds him to disobey the laws of the land, or to make any agreement against the Government or its officers or anything of the kind. (1, 744.)

He further said that the obligation or ceremony to which he referred, in the endowment house, relates to things spiritual absolutely. (1, 746.)

Angus M. Cannon, who was a patriarch in the church, being asked by the chairman to state the ceremony said that he declined to do so, because it is of a religious character and is simply an obligation that the person taking it enters into to be pure before his Maker, and worthy of the attainment of his Redeemer, and the fellowship and love of his children and their mothers, his departed ancestry, and his coming descendants. (1, 791.)

Moses Thatcher, in answer to questions propounded to him by the chairman on this subject stated that he declined to disclose the ceremony of the endowment house, "for the reason that these were held to be sacred matters, and only pertaining to religious vows." (1, 1048.)

I will now proceed to state to the committee the testimony on this subject of witnesses who were examined on behalf of the respondent.

Hugh M. Dougall, who is a farmer and cattle grower, and is postmaster at the town of Springville, in Utah, was expelled from the Mormon Church about 1874, and since then has not been in any way connected with it. He took his endowments when he was about twenty-five years old. Prior to that time he had heard statements to the effect that the obligation taken by those who go through this ceremony includes a vow or obligation against the nation, and says that therefore he was looking for that particular point; that according to his recollection the obligation was, in substance, that those who took it importuned heaven to avenge the blood of the prophets and the martyrs on this generation, and that he did not remember the name of Joseph Smith being mentioned at all. (2, 759.)

Mr. Dougall was subsequently recalled, and asked by Senator Knox this question:

"Are you willing to say whether the vow obligated you to anything incompatible with your giving full and supreme allegiance to the United States or the State of Utah, or which obligated you to anything incompatible with your fully performing your duty as a citizen of the United States and that State?"

He answered: "Not one thing." (2, 781.)

Alonzo A. Noon left the Mormon Church, voluntarily, about 1870, when he was 32 years of age, having taken his endowments when he was twenty-eight or thirty years old. He stated that there was nothing in the ceremony about promising or vowing to importune heaven to avenge the blood of the prophets on this nation, and that there was nothing in the ceremony which in any way imported hostility to the United States or to the Government thereof. That he was perfectly clear about that.

He also said that he did not remember that the name of Joseph Smith was used in the ceremony. He did recollect that there was, in the

ceremony, a quotation from the scriptures, and upon hearing read verses 9 and 10, chapter six of the Revelations, he said that it was something like that; that that was about the intent.

One of these verses, it will be remembered, was referred to by the witness, Wallis.

The two verses are as follows:

Nine. And when he had opened the fifth seal, I saw under the altar the souls of them that were slain for the word of God, and for the testimony which they held.

Ten. And they cried with a loud voice, saying: How long, Oh Lord, holy and true, dost thou not judge and avenge our blood on them that dwell on the earth. (774.)

Being asked whether there was anything in the obligation which indicated hostility to the Government, Mr. Noon said:

"The very reverse. I have never heard any people taught only loyalty to the Government of the United States." (2, 775.)

Mr. Noon was recalled and asked the same question that had been propounded by Senator Knox to Mr. Dougall, and he answered the question in the same way. (2, 781.)

William Hatfield, who was a Mormon until he was twenty-three years of age, after which he drifted away from that church, when he was not quite twenty-one years of age took his endowments as a preliminary to his marriage. (2, 785.)

He said that neither he nor any others in his hearing took the obligation which Wallis had testified to, and that he did not at that time take any obligation or enter into any covenant, vow, or agreement of any kind inconsistent with his duties as a citizen of the Territory of Utah or of the United States. He was not cross-examined. (2, 796.)

John P. Meakin, who was a Mormon until he was twenty-three or twenty-four years of age, left the church because he did not believe in polygamy. (2, 796.)

He went through the endowment house when he was 18 years old. He stated that he had no recollection at all of any obligation of vengeance or retribution, and that nothing took place at the time with reference to promising or vowing to importune heaven to avenge the blood of the prophets on this nation, or to avenge the blood of Joseph Smith on anybody; that there was nothing took place which imported any obligation in opposition to his duty as a citizen, either of the Territory of Utah or of the United States; that he was very clear about this. (799.)

He also said that there was nothing in the endowment ceremony about praying the Almighty to avenge the blood of the prophets on this generation. (2, 801.)

Elias A. Smith, cashier of the Deseret Savings Bank, in Salt Lake City, in answer to a question by the chairman, stated that he had conscientious scruples against divulging any part of the endowment ceremony (2, 854); but in answer to a question by Senator Foraker, he said there was nothing in any obligation of the church which it imposed upon its members, in connection with marriage or any other occasion, inconsistent with fidelity as citizens of the National Government or to the State government. Mr. Smith persisted that while he had stated what was not in the obligation, he did not feel at liberty to state what was in it. (2, 855.)

Richard W. Young, who was a graduate of West Point and of the law school of Columbia College, New York City, and who had served in the Volunteer Army in the Spanish war in the Philippines and else-

where, is a member of the Mormon Church, and is not a polygamist. (2, 950-952.) He was asked by the chairman if he had any objection to disclosing what took place during the endowment ceremony and he replied that he considered himself under an obligation not to do so. (2, 969.)

He was asked later, by counsel for the respondent, if he had any objection to stating whether the ceremony included, in any form or shape, any invocation of vengeance or retribution against this nation. Senator McComas suggested that the witness should state the whole ceremony or nothing. Thereupon an extended argument was made, at the end of which the witness was asked by counsel for the respondent:

"In that ceremony is there anything which relates to your duties or obligations to your government or to this nation?"

The chairman ruled that if the witness should answer this question he would be required to state the whole ceremony, and thereupon the witness declined to answer it (2, 981-985.)

Senator Smoot testified positively that there is nothing in the endowment ceremony about avenging the blood of the prophets or avenging anything else on this nation or on this Government (3, 183, 184.)]

POLYGAMY.

I come next to the consideration of the question of polygamy. On this subject the first inquiry naturally is, What is the charge? I have already referred to the fact of the impossibility of finding definite issues here; but it happens that when we came before the committee at our preliminary meeting, Mr. Tayler—whether dissatisfied or not with the rambling way in which this protest had been prepared, I can not say—presented certain charges that I presume he considered to be definite, and one of them was what might be taken to be a charge of a conspiracy amongst fifteen men, the president and his two counselors, the heads of this church, and the twelve apostles. It is charged that they are in a conspiracy for the purpose of encouraging the practice of polygamy.

I need not say to any lawyer that that is a criminal charge; that if two or more persons in any State of this Union, or in the District of Columbia, associate themselves together for the purpose of having a penal law of that jurisdiction broken, or of doing anything which is in violation of the law, the agreement which they make to do that thing becomes at once a crime for which they may be called to account by the indictment of a grand jury, or, where that is not required, by an information by the prosecuting officer.

But if you will look at this carefully prepared protest—because Mr. Tayler tells us it is a carefully prepared document (1, 119)—you will find that the first step the counsel who have to support it take is to throw it to the winds. That protest says: "We charge Reed Smoot with no offense cognizable by law."

The counsel who came here to support the protest, after going over the matter, revised the charge and framed an indictment which charges a conspiracy to which fifteen persons were parties. That is the charge to which I shall now address myself in respect to the evidence which supports it, because I must admit that if Reed Smoot be now, since his election and admission to the Senate, in a criminal conspiracy with other persons for the purpose of encouraging the commission of

crime, I could not stand here and say he was entitled to retain his seat in the Senate.

Senator BEVERIDGE. Suppose it were not only for the commission of the crime, the breaking of the law, but for the teaching of the breaking of the law not actually broken.

Mr. WORTHINGTON. That is the same thing. That is not the charge, but I should say that would be precisely the result, because he who encourages another—advises him to commit a crime—is just as guilty as the man who commits it.

Senator BEVERIDGE. Do you conceive it as one of the issues here, to which you will address your argument, that this is a propaganda or conspiracy, as you term it, to teach the breaking of the law?

Mr. WORTHINGTON. That is precisely what I expect to address myself to.

Senator BEVERIDGE. And if such an issue as that were sustained, it would be sufficient ground upon which to exclude the respondent?

Mr. WORTHINGTON. If it teaches the practice of it: yes.

Senator BEVERIDGE. Yes; teaches the breaking of the law.

Mr. WORTHINGTON. Yes.

Senator BEVERIDGE. It is not necessary to actually break it, but simply to teach others to break it?

Mr. WORTHINGTON. So far as that is concerned, there is no question here that a great many of the Mormons in Utah are breaking the law.

Senator BEVERIDGE. That is not the question. You stated the issue, and I wanted to put the other phase of that issue, as to whether this conspiracy or propaganda involved not only the breaking of the law but the teaching of the breaking of the law. I was just addressing counsel's attention to that.

Mr. WORTHINGTON. I would say it would be impossible that fifteen people could be engaged together in teaching the violation of law without being in a conspiracy to break it. It would be the same thing, I should say. I shall briefly go over the established facts in this case, because, fortunately, we have very little that is controverted in the way of facts on this branch of the case.

Something has been said in the evidence about whether as a matter of fact Joseph Smith, jr., the prophet, did practice and preach the doctrine of polygamy. It is charged by the reorganized church, which has separated from the Mormon Church, that as a matter of fact he neither practiced it nor preached it, as I understand, but that after he was dead the revelation which teaches celestial marriage and polygamy was concocted and dated back so as to appear to have emanated from him.

With that controversy I can not see that we have anything to do. The fact is, as everybody admits, that when the Mormons went to Utah, where they arrived in July, 1847, they were practicing polygamy, and that Brigham Young, who was their president and leader, then had plural wives. In the year 1852 Brigham Young openly and publicly proclaimed this covenant as a rule and doctrine of the church.

The singular thing is that at that time he was not only the president of the Mormon Church, but he was the governor of the Territory of Utah, by appointment of the President of the United States, by and with the advice and consent of the Senate, and held also the office of Superintendent of Indian Affairs; and although he did, in that public and official way, promulgate that doctrine, he held his office of gov-

error of that Territory until his term of four years had expired, and was then renominated by President Pierce, his first appointment having been made by President Fillmore, and held the office for another term of four years, and that all that time, openly and publicly, the practice of polygamy and the teaching of it was a part, and a very large part, of the business of the Mormon Church and of the Mormon leaders.

Nothing was done by the United States in the way of stopping that practice (although the committee will perceive that the Government of the United States could have crushed it in its infancy then without the slightest trouble) until the year 1862. In 1862 there was passed the first statute which we have upon the subject.

The act of 1862 punished the crime of bigamy. I will not dispute the legal proposition which Mr. Tayler made that a man who commits polygamy does commit bigamy. Bigamy is the taking of another wife, and polygamy the taking of many. But there is this great distinction between the two cases: While bigamy is an offense which is often perpetrated all over the country—and we read in the papers of a man in Chicago the other day having turned up with sixteen wives, and more coming—as a matter of fact the offense which is ordinarily and, we might say, almost always committed is the offense of a man getting a woman to marry him when he has a wife, making her believe that he has no other wife, and thereby getting her into a most deplorable situation, while in the case of polygamy the plural wife always knows that she is becoming a plural wife, and there is no deception practiced upon her and no deception practiced on the first wife.

The act of 1862 did not in any wise punish or make it an offense for a man and his wives to live together. It did not refer to polygamous cohabitation.

So that you have plural marriages and polygamous cohabitation going on under the laws of the United States in a place under the exclusive jurisdiction of the United States from 1848 to 1882.

The Reynolds case comes in this interval. There is one fact about the Reynolds case which illustrates the good faith of these people and their honest belief that this law was unconstitutional as applied to their peculiar doctrine. George Reynolds, who was a witness here and who was the accused in that case, himself furnished the evidence. As has been said here, there was great trouble in proving plural marriages, as they were ordinarily conducted in places that nobody but members of the church would know anything about—in the temple or in some place that was private, so far as the general public was concerned; but the point having been made that they were not living legal lives, they themselves furnished a victim, and Reynolds gave the evidence to the prosecuting officer and had the case made up.

It came up to the Supreme Court of the United States; and to us it would appear strange not only that anybody should be surprised at that decision, but we might even think it strange that anybody would bring such a question before the Supreme Court of the United States, as to whether a man can defend himself, in the commission of what is a crime under the law, by saying that according to his religious belief he was required to do it or authorized to do it.

In this testimony there is something that is not clear to me, and my friend has not noticed it. Every time a Mormon witness was put on the stand, from Joseph F. Smith down, and was asked about this ques-

tion, he always assumed that in his mind the decision of the Supreme Court of the United States, which made their relations criminal, occurred shortly before the manifesto in 1890. It was said by one of the witnesses that he did not understand that the Reynolds case had been properly presented to the court.

But however that may be, the fact is the Mormons continued their unlawful practices until finally the act of 1887 was passed, and by prosecutions which had been begun about 1884, under the act of 1882, and by the further proceedings in reference to escheat and otherwise, taken under the Edmunds-Tucker Act of 1887, the people and the church were brought to the state in 1890 where they were called upon to do something or perish.

I would like to have the committee particularly understand—and we shall refer to the testimony on this point—that it is not true that these plural marriages continued to be performed up to 1890 as frequently as they had been performed prior to 1884. On the contrary, the evidence shows that not only did the Mormon people and the Mormon leaders deny that that was so, but the fact was that from the time these prosecutions began with severity, about 1884, the number of these plural marriages began to be less and less, until during a few years before the manifesto there were scarcely any.

There is one single fact brought out here by the counsel for the protestants in the examination of Brigham H. Roberts himself which discloses that. If there is anything a Mormon would like to do it is to be married in his temple, but when Brigham H. Roberts was married, in the early part of 1890, before the manifesto, the marriage took place at a private house, with only two or three witnesses present and was kept secret from everybody for years afterwards, including those who were already the wives of Roberts, showing that even at that time they recognized the fact that it was a thing which must be concealed even from members of the church.

Then came the manifesto. Now, I undertake to say that it is impossible for a lawyer to read the manifesto without seeing that while it prohibits future plural marriages, it can not be construed in a legal sense to include the cohabitation of men with the plural wives they already had.

It starts out by reciting that there had been charges of new plural marriages in recent years, and denies it; and then goes on to say finally that the advice of President Woodruff to the saints is to enter into no more plural marriages. But a year or two after that, President Woodruff was giving his testimony in the escheat case. When he was asked whether he would *expand* the manifesto so as to include the *further* offense of polygamous cohabitation, he assented to that proposition, put into his mouth in that way, and Joseph F. Smith testified practically the same way (1.91).

The question which was there presented to the Mormon people was precisely the question that might be presented to this Congress. Suppose the chairman of this committee, let us say, prepares an act which he desires to have passed by Congress. It is submitted to each House of Congress and passed and signed by the President and becomes a law.

After it has become a law he says he meant something else that is not in it, and that his construction of it, his understanding of it, is

that it should be expanded to include something that was in his mind, or may have been in his mind, but that he never put in the instrument. We all know, certainly, that whenever any question of that kind would come before a court, not only would such a suggestion as that not be considered, but it would not even be allowed to be made, because Congress sees only what is in the act itself—not what is in the mind of him who drew it—and passes it accordingly. It is not in the power of any man who has drawn an act or a contract or any other paper, after it has been signed and executed, or has become effective in any way, to undertake to vary its meaning as it stands by what he thought he had put into it.

From 1890 to 1896, bear in mind, Mr. Chairman and gentlemen of the committee, down to the 4th day of January, 1896, Utah was a Territory of the United States. There were still there the judges, the governor, and the district attorney, appointed by the President by and with the advice and consent of the Senate. During those six years in which, according to the testimony, there were hundreds, nay, perhaps at that time even a thousand or two, of men living in open polygamy with plural wives, there was scarcely a prosecution against one of them.

You remember the testimony of Judge McCarty, who was the assistant district attorney at that time, that there was no disposition on the part of the prosecutors to punish or on the part of the people to complain, and that his understanding at the time was that instructions had been sent from Washington to the district attorney that he was not to interfere with men who were living in polygamous cohabitation if they took their wives before the manifesto (2,887,888).

Take the very paragraph of the report of Governor Thomas which was read by Mr. Van Cott this morning, in which he refers to the fact and says he expects there will be more or less polygamous cohabitation in the future. But certain it is that, just as the practice of polygamy had started and increased under the protection of the Government of the United States, so after the Mormon Church and the Mormon people had received a revelation which forbade making further plural marriages, it became an established status of that Territory, under the same protecting aegis of the United States, that the men who were living in polygamous cohabitation with the wives they had taken before should not be disturbed.

And so that went on until the matter was here in Congress, when you were called upon at last, after many years of application on the part of the people of that Territory, to seriously take up and decide the question whether it should be admitted into this Union.

I would like the committee to understand that for twelve years before the passage of the enabling act there had been practically continuous hearings before the committees of Congress, and memorials and papers filed here and publicly referred to, which showed that during all of that period there was in the mind of every member of Congress who had anything to do with it, as there was constantly in the minds of the prosecuting officers and people in Utah, the distinction between polygamy and polygamous cohabitation. The Edmunds Act of 1882, and the Edmunds-Tucker Act of 1887 both make the distinction, and everybody understood that polygamy was one thing and polygamous cohabitation was another.

After all that information and those numerous discussions, finally Congress came to the time when it decided to admit these people, with the Mormons largely in the majority, and these practices going on, into the Union, and Congress was called upon to determine upon what conditions, if any, they should admit that State into the Union. It did then ordain in the enabling act, which was passed in 1894, after the other usual provisions in reference to the election of officers, and so on, that they should put into their constitution a provision which should be irrevocable without the consent of the United States and of the people of the State, too, "That polygamous or plural marriages are forever prohibited."

So that Congress said to this State, as every lawyer I think will understand, by necessary and legal implication, "You may come into this Union if you will agree that future polygamous marriages shall be stopped, and as to the cohabitation of those who already have plural wives, the State may deal with that subject as it pleases."

I do say it is absolutely impossible to reach any other conclusion than that that was the formal compact entered into between the United States of America and the Territory of Utah when it was proposed to admit it as a State; and it became a State under those terms and conditions.

Then we have it in this record that after the enabling act was passed and the people of that Territory called their constitutional convention—so much of the debate as referred to this matter is incorporated in this record—every member of that convention had the same understanding, that the clause which they did put into their constitution, in conformity to that requirement, in just so many words, did not apply to polygamous cohabitation, which was otherwise dealt with, or there would have been no provision about it at all. (1, 642-656.)

Now, it being left with the State, how did it deal with it? The State dealt with it just as the United States had dealt with it for six long years. It said, "If you will continue to live with these plural wives whom you married before the manifesto and with the families who have been already brought into the world, and will not ostentatiously flaunt this unlawful relation so that it will attract public notice and attention, you may go on living out your lives in the future as you have lived them in the past and nothing will be said about it."

We have here to this effect the testimony of at least twenty of the most prominent and independent men to be found in the State of Utah, nearly every one of them a Gentile, some of them Republicans, some of them Democrats, some of them called by the protestants, and some of them called by the respondents. The strongest testimony we have in the case is the testimony of Mr. Critchlow, who prepared this protest, and who during the early stages of this hearing sat by Mr. Tayler's side and aided him in the presentation of the case. The next strongest is that of Judge Powers, who is a leading lawyer and man in Utah, who was brought here by the protestants to testify to the same thing. They both testified in the most emphatic language that not only was it the view of the people of Utah, Mormons and non-Mormons, but it was their view, that on account of the difficulties which were presented of men who had existing wives and families, it should not be prosecuted or interfered with.

I will file with the printed argument a statement of the evidence on the subject.

[The statement is as follows:

Mr. Critchlow testified that after the manifesto of 1890 there was no inclination on the part of the prosecuting officers "to push these matters as to present cohabitation," "thinking it was a matter that would immediately die out," that it was well known that Apostle John Henry Smith was living in unlawful cohabitation and that the non-Mormons generally made no objection to it, that they were disposed "to let things go," and that that was the general feeling from the time of the manifesto of 1890 "down to very recent times—pretty nearly up to date, or practically up to date."

He added that even up to the time he was testifying the general inclination in Utah was not to prosecute Mr. Smith; that there is no great amount of sentiment in Utah that would favor putting Joseph F. Smith in the attitude of being persecuted for his religion; and that the general inclination against prosecuting Mr. Smith is true generally of polygamists who were such before the manifesto (1, 619, 620). Further on, Mr. Critchlow said that the general feeling in Utah among non-Mormons has been that if all plural marriages had ceased since the manifesto, to these relations of unlawful cohabitation, "they were practically willing to close their eyes, except in cases where they were really absolutely offensive;" and that even as to higher officials it would be fair to say that the people were inclined to minimize these things as much as possible; that it was known that Apostle John Henry Smith had a child born to one of his plural wives during the time of the constitutional convention (in 1895), but the non-Mormons were disposed to overlook it, for they felt satisfied that there would be no more plural marriages, thinking the thing would work itself out in the future, and that where the polygamists have had their wives in separate houses, and they simply kept up the old relations without an offensive flaunting of them before the public, it has been practically passed over (1, 624, 625).

Orlando W. Powers, another leading Utah lawyer, who was associate justice of the supreme court of the Territory of Utah in 1885-86, and whose testimony shows strong feeling against the Mormon Church, another witness for the protestants, testified that, speaking for the "old guard" of the Liberal party, who fought the Church party in the days when it was a power, they then felt, and still feel, that if the church would stop new plural marriages, the "old guard" would not interfere with them. After speaking of the difficulty which people who live in the East have in understanding the situation in this regard in Utah, he, referring to polygamous cohabitation, said:

"That condition exists. There is a question for statesmen to solve. We have not known what was best to do. It has been discussed, and people would say that such and such a man ought to be prosecuted. Then they would consider whether anything would be gained; whether we would not delay instead of hastening the time that we hoped to live to see; whether the institution would not flourish by reason of what they would term persecution. And so, notwithstanding a protest has been sent down here to you, I will say to you the people have acquiesced in the condition that exists." He added, that by "the people" he meant the Gentiles (1, 884-885).

William J. McConnell, ex-governor of Idaho, and ex-Senator of the United States from that State, when asked whether there was any public sentiment in Idaho in reference to prosecutions for simply

unlawful cohabitation, as distinguished from new polygamous marriages, replied:

"It was understood and agreed when we adopted our State constitution and were admitted to statehood, that these old Mormons who had plural families would be allowed to support their wives and children without molestation. It was agreed by all parties, Democrats and Republicans alike, that they should be allowed to drift along. We could, under the law, have prosecuted these people and perhaps have sent them to jail. We could doubtless have broken up these families, but we felt it better that these men should be allowed to support these old women and these children than to further persecute them" (2, 522).

This witness was sharply cross-examined by Mr. Tayler and by the chairman on this subject with the result that he made his testimony more emphatic (2, 524, 526).

On his redirect examination he further stated that he agreed to the foregoing testimony of Mr. Critchlow and Mr. Powers (2, 531, 532).

F. H. Holzheimer, a leading lawyer of Idaho, who was practicing his profession in Utah until November, 1902, testified that the issuing of the manifesto of 1890 brought about a very peculiar state of affairs, and that the question of how to take care of the problem was one which confronted the people of Utah and which the witness did not think they have really solved. He added:

"The consensus of opinion at that time was that those who had contracted marriages prior to the manifesto should be left alone. It was not, however, believed that they should openly violate the law and unlawfully cohabit with their numerous wives. I will say this, that where that has occurred it has been mostly in isolated cases. There have been a number of cases where children have been born, but in no case that I know of has it been done openly. It is true it is against the law, but it has not been done in such an open, lewd manner as has been intimated, nor has it been general. And because of the peculiar state of affairs it was the opinion that the whole thing would die out; that it was only a matter of a short time when the question would be entirely settled, because there would be no new marriages" (2, 575-576).

Frank Martin, a lawyer and Democratic leader in Idaho, testified that he believed those who were living in polygamous cohabitation in his State ought to be punished. But he added: "A majority of our people seem to think that the best way, as far as concerns those old fellows who contracted these relations before the manifesto, as long as they stop it and do not take any new wives, or as long as no new wives are taken, is to let it go, to let it gradually die out, to let the old ones die" (2, 622).

James H. Brady, a leading Gentile Republican of Idaho, who operates several irrigation canals in that State and owns a power plant at the American Falls, when asked what is the sentiment in Idaho regarding disturbing or leaving undisturbed the men who went into polygamy prior to the manifesto of 1890, answered:

"To be absolutely frank in the matter, my judgment is that a majority of the men in Idaho would favor leaving those old men to live out their lives just as they have started in" (2, 649).

J. W. N. Whitecotton, a lawyer who resides at Provo City, where Senator Smoot lives, and who is intimately acquainted in most of the Mormon counties in Utah, and has been a leading Republican politician

in that State for many years, was asked what has been the sentiment among non-Mormons in Utah in regard to the men who had entered into polygamy prior to the manifesto of 1890, and answered:

"Well, that is a pretty hard question to answer. The Gentiles in Utah have recognized that we have a very hard problem to deal with in that respect. It offers many embarrassing things. There has been a good deal said in this testimony—I have read it—about an understanding. I know nothing of any understanding in regard to that. But I do know this, that the people generally feel like they do not want to stir up this thing and set it to smelling any more. It has not a good odor.

"And there is another thing that they have taken into account in the neighborhood where I am, at least. When we get out to punish this man who is living in polygamy, put him in prison, they take into account somewhat the consequences that will come to his family. Now, the women who went into polygamy in Utah went into it because, although I think under a delusion, they thought it was a religious duty; and they are bound by the obligation. They feel that way. And under the rules of the church, as I understand them, a plural wife, if she is divorced from her husband, may not become the wife of another man, and those plural wives who have children are in a very precarious condition if they are to be entirely separated from the only protector they have. I think that the condition of these women and the children they have has probably entered as largely into the feeling of 'let the matter slide along and not bother it' as any other factor."

On his further examination on this subject, the following occurred:

"The CHAIRMAN. What is the sentiment in regard to those who contracted plural marriages before 1890 and are now living with their wives and having new children by them up to this time?

"Mr. WHITCOTTON. The sentiment is that it is an awful condition.

"The CHAIRMAN. That it is a lawful condition?

"Mr. WHITCOTTON. That it is an awful condition.

"The CHAIRMAN. Oh.

"Mr. WHITCOTTON. Leave off the "l." And we wish we were out of it. We do not know how to get out of it.

"The CHAIRMAN. What is the sentiment with respect to that class of people—approval or disapproval?

"Mr. WHITCOTTON. They have the disapproval of the people generally, but that does not go to the extent of causing a man to shoulder the responsibility of setting the law in motion against that man.

"The CHAIRMAN. So that that class of men are left without interference?

"Mr. WHITCOTTON. They are left practically without interference. They have our regrets, but we do not know how to get at them.

"Senator FORAKER. You have said that that is largely because of the regard the people have for the condition in which the plural wives and children would be left in case of a successful prosecution.

"Mr. WHITCOTTON. Yes, sir; I think that is the chief cause of withholding the hand of prosecution. Those women are human, and so are their children, and they are not much to blame either, especially the children" (2, 679-680).

Hiram E. Booth, a practicing lawyer of Salt Lake City and one of the leading managers in the State of the Republican party, upon being

asked to explain why it is that if the people of Utah, including a large part of the Mormon people, are so opposed to polygamy, those who are living in polygamous relations are not interfered with, said:

"Well, my explanation of that is that the principal fight of the Gentiles has been to do away with polygamous marriages. While during many years there were numerous prosecutions for unlawful cohabitation, it was not for the purpose of punishing, so much, those people who lived in unlawful cohabitation, as it was to bring about a cessation of polygamous marriages. That was the principle for which we strove, to stop people from marrying in polygamy. This was finally brought about in 1890 by the manifesto of the president of the church, which was affirmed or sustained as they call it, by the conference on October 6, 1890, and again in 1891. We did not accept that in good faith at that time. That is, we were somewhat skeptical about it; but later we did. Now, there has been since that time a disinclination to prosecute men and women who live in unlawful cohabitation. One of my own reasons—the way I looked at it—was this: My sympathy was with the plural wife and her children. By these prosecutions she suffered more really than the husband did. In nearly all of the cases I may say the plural wife is a pure-minded woman, a woman who believed that it was right according to the law of God for her to accept that relation, and that she can not be released from her obligations when they are once entered upon.

"Mr. WORTHINGTON. You mean by the rule of her church?

"Mr. BOOTH. By the rule of her church, not by law. I am looking at it from her standpoint now—that when once that relation is entered upon there is no way of divorcing her from it.

"Mr. TAYLER. Not by the church even?

"Mr. BOOTH. The church can, but I mean in no legal way. There is no legal way out of it. So that to enforce rigorously the law against unlawful cohabitation would mean in her case a divorcement from her husband without the right of remarrying again. She would be isolated, cut off without any husband, without any benefit of the right to social conversations with the man that she had married in good faith, and so forth. It would work a great hardship upon her and her children. And, again, if her husband is punished, she is brought to light and suffers the ignominy of the prosecution.

"For that reason I have been disinclined to prosecute those cases, and many Gentiles, for like reasons, have felt that way; that it ought to be allowed to die out, as it will in time, and for the further reason, as I have stated here, that the principal thing we were fighting was the polygamous marriages and not unlawful cohabitation. We knew that if we could accomplish the destruction of the right to marry in polygamy the thing in time would cease, but so long as it went on, no matter how much you might prosecute people for unlawful cohabitation, it would continue.

"Mr. WORTHINGTON. Mr. Booth, you say that is the way you felt about it, and the way many other Gentiles felt. What do you say as to the proportion of the people of your State who feel that way on that subject?

"Mr. BOOTH. I should say, with Judge Powers and Mr. Critchlow, that the general sentiment among the Gentile people in Utah is a disinclination to prosecute those cases."

* * * * *

"Mr. WORTHINGTON. If I understand you, when Senator Smoot was a candidate for Senator, and when he became an apostle, which was in April, 1900, things had settled down in Utah by the general acquiescence of the people that if there would be no new polygamous marriages the people who had entered into that relation before the manifesto should not be disturbed?

"Mr. BOOTH. Should not be disturbed; no, sir.

"Mr. WORTHINGTON. And that was the state of opinion there when he became an apostle?

"Mr. BOOTH. That was the state of opinion when he became an apostle.

"Mr. WORTHINGTON. And if he had gone against that state of opinion he would have been going against the public sentiment of the State, would he not?

"Mr. BOOTH. Yes.

"Mr. WORTHINGTON. Gentiles and Mormons?

"Mr. BOOTH. Gentiles and Mormons. I would say in that respect that where polygamous relations were carried on in such a way as to outrage public sentiment, in those cases, of course, a prosecution would have been demanded" (2, 714, 715, 723).

Arthur Pratt, who was deputy United States marshal in Utah from 1874 until 1882, and again from 1886 to 1890, and who probably arrested more Mormons charged with polygamy or polygamous cohabitation than any other man, said that he had heard Mr. Whitecotton and Mr. Booth testify on this subject, and that he agreed with them, for the reasons stated by them—not out of any pity or sympathy for the men, but out of sympathy and out of the suffering that would be entailed on the women and the children (2, 744).

All of the witnesses I have so far referred to in this connection are, and always have been, non-Mormons.

Hugh M. Dougall, who was a Mormon until he was over 30 years of age when he was excommunicated (2, 756), is now the postmaster at Springville, Utah, a town about 6 miles from Provo City. He testified that the general feeling in the part of the State where he lives is that those who are living in polygamous relations should not be interfered with, the people being willing "to let the older cases go and let them die out—naturally die out" (2, 760).

Alonzo A. Noon, who was also a Mormon until he was over 30 years of age, when he left the church, and who lives in Provo City where he has held the elective office of justice of the peace and precinct justice for a number of years, when asked what he knows about the public sentiment in that community as to letting alone those who had plural wives, if there were no new plural marriages, said:

"They let them alone, because they consider they are old; that it would be kind of worrisome. They are about halfway in the grave anyway. They do not want to worry them to death" (2, 780).

William M. McCarty, a non-Mormon, who is 46 years old, and who has lived in Utah all his life, after working as a farmer and in the mines until 1887, was admitted to the bar. He was assistant United States district attorney in Utah from 1889 until 1892, when he was elected county attorney of Sevier County, in Utah Territory. He was reelected in 1894. In 1895 he was elected a district judge of the State of Utah. He was reelected to that office in 1900, and in 1902 was elected associate justice of the supreme court of the State, which office

he still holds (2, 878, 879). Judge McCarty has always been an uncompromising opponent of polygamy and polygamous cohabitation. A few prosecutions for polygamous cohabitation, after the manifesto of 1890 and before statehood, were conducted by him while he was assistant United States district attorney. He testifies: "I prosecuted them before the United States commissioners up until 1893, when the United States attorney refused to allow my accounts for services for that kind of work, and then I quit and confined my investigations before the grand jury in those cases." He further stated that his superior was a Gentile, John W. Judd, and that it was he who stopped the prosecutions (2, 880).

In 1897 some prosecutions for polygamous cohabitation against men who were married before the manifesto, which seem to have been instigated by Mr. Owen, came before Judge McCarty in his district. The accused plead guilty and were fined upon their agreeing to cease cohabitation with their plural wives (2, 882, 883, 898, 916). Judge McCarty testified that it was after these prosecutions he obtained the first emphatic expression he had in regard to the state of public opinion in Utah at that time as to such prosecutions. He found that the press was against the prosecutions and that the public prosecutor, whose attention he invited to the matter, refused to proceed, stating that he had talked with his brother, who was then manager of the Herald, and that his brother advised him to let those cases die out; that they would die out; that that was the most practical solution of the question (2, 884). Thereupon Judge McCarty called a grand jury, still believing that the law would be enforced, and being determined to do what he could at the time.

He testified that from what took place leading to these prosecutions and the investigation of the grand jury he reached the conclusion that the public sentiment of the State was against interfering with the men who had married before the manifesto in their polygamous relations. He stated that the men who had been convicted before him continued to live in polygamous relations, and that he then "got expressions from some of the leading Gentiles of the State, some of whom were Republicans and some of whom were Democrats, that the most practical solution of the question was to let these old men die off, and not molest them;" that when Senator Smoot became an apostle in April, 1900, the consensus of opinion had been "that the better way was to close our eyes to what was going on, and let the matter die out—that neither the Gentiles nor a majority of the Mormons were approving of the practice," but there was no sentiment in favor of enforcing that law; but that it was rather a feeling of toleration and forbearance (2, 882, 885, 886).

E. D. R. Thompson (a non-Mormon) has lived in Salt Lake City since 1889, has never been a Mormon, and has taken a leading part in Republican politics in that State. After Joseph F. Smith had testified here that the people of Utah had "rather condoned than otherwise" polygamous cohabitation by those who were married before October, 1890 (1, 130), Mr. Thompson, with some other non-Mormons, citizens of Salt Lake City, undertook to start a movement for the purpose of taking steps to have the Senate informed that Mr. Smith's testimony on this point was incorrect. Mr. Thompson was appointed chairman of a committee that was charged with the carrying out of this project. The result of the inquiries which he made among the non-Mormons of

Salt Lake City was that it would be better to drop the subject and for that reason the committee was never called together, and nothing was done at that time (2, 990, 991). When asked what is the sentiment of the Gentiles of Utah on this subject, he said:

"Well, the general idea has been that this condition of things would gradually die away by the lapse of time. It has been generally repugnant to most people who take any position as against the Mormons in this matter, which would imply either prosecution or persecution. In other words, they did not care to be informers" (2, 991).

Charles De Moisy (a non-Mormon), who is a commissioner of the State bureau of statistics of Utah, and has never been a Mormon, says, in regard to the sentiment among Gentiles in Utah as to the punishment of those who live in polygamous cohabitation where the marriages were celebrated before the manifesto, "I think there is a matter of indifference about it"—that he himself thinks—"the less said about those things the better" (2, 1003).

Glen Miller, a non-Mormon, who was United States marshal in the Territory of Utah for four and a half years, and had been a member of the State senate for two years after Utah had been admitted into the Union, when asked what is the sentiment of Gentiles in Utah in regard to prosecutions for polygamous cohabitation between persons who were married before the manifesto, answered:

"Well, there has been a sentiment against that, as there has been against any informing against any of the infractions of law generally. They have felt that it was only a question of time that the practice would die out through the death of those who practiced it and the removal of that generation" (3, 160).

John W. Hughes, who has never been a Mormon, and is the editor of a weekly paper in Salt Lake City, when asked the same question, replied:

"Well, the sentiment has been right along that these old fellows that are in polygamy—to let them alone and they will soon die out. Very soon none of them will be left. The great point with the Gentiles is that there will be no new plural marriages" (3, 163).

Mrs. Mary G. Coulter, a non-Mormon, whose husband is a physician in Ogden, testified:

"Those of us who have witnessed the old-time antagonisms and who are living and working for the new growth and progress, do not believe in inquisitorial methods. We believe that the work of education, the establishment of industries, the developing of the mining regions, the building of railroads especially, and the influx of people owing to the colonization schemes which are succeeding there, will in time eradicate all of the old and objectionable conditions" (3, 170).

Mrs. W. H. Jones, who has resided in Salt Lake City since 1871 and has never belonged to the Mormon Church, when asked by the chairman whether she agreed with Joseph F. Smith that polygamous cohabitation was condoned, replied:

"I do not. I think it is simply tolerated. I think that with the passing away of the old people who are now living in polygamy, polygamy will die out" (3, 180).

Frank B. Stephens, a lawyer who has been practicing law in Salt Lake City since 1888, and who was assistant United States attorney at Salt Lake City from March, 1891, to June, 1893, and was city attorney at Salt Lake City in 1890 and 1891, and a member of the board of

trustees of the Salt Lake College for fourteen years, and who is a Democrat, and has never belonged to the Mormon Church (3, 345), was asked what is the sentiment in Utah with reference to prosecutions for polygamous cohabitation. His examination then proceeded as follows:

"Mr. STEPHENS. Under the prosecutions which were instituted for unlawful cohabitation it was only necessary to show that a man had a legal wife, with whom he was presumed to cohabit; that he had been seen about the premises of the plural wife. It was not necessary to prove cohabitation with the plural wife. The result was that men could not visit their children. If I may be permitted, I will mention a concrete instance.

"Mr. VAN COTT. I wish you would, Mr. Stephens.

"Mr. STEPHENS. When I went to Salt Lake City I rented a house up on Brigham street in the best residence portion, which I afterwards found was next door to a plural family. I rented the house of the father of that family.

"Mr. WORTHINGTON. When you say a "plural family" you mean the wife and children?

"Mr. STEPHENS. I mean the wife and children. This plural wife lived there. He was a merchant in the city. I rented the house of him and lived there the first year.

"He had a family of children from 6 to 12 years of age. That was in 1888. I became acquainted with him, and he used to come up to the house and go into our back yard and call over the fence to some one to come out when he desired to communicate with his family.

"On one occasion, when his little girl was sick and expressed a desire to see her father, he requested a neighbor to go in with him, so that he might visit his family.

"Now, when the manifesto was issued and we felt that the matter would become a thing of the past as fast as they died if there were no more polygamous marriages, there was a feeling that this harsh rule should not be imposed; that the children growing up there to manhood and womanhood ought to have the advice, care, and sympathy of a father. I think there was a general feeling that for the visiting of a family and looking after them and extending to them the care and advice and sympathy that a father does to his children, he should not be incarcerated in the penitentiary.

"In the course of time there naturally came rumors in some instances of additional children, and that was a hard situation to meet. It was a question whether the matter should be ferreted out and the father sent to the penitentiary and the children disgraced in the community, and I think there has not been a general disposition—I know there has not been a general disposition—to ferret out those cases and make them public and send the fathers to the penitentiary.

"I do not mean to say we have condoned or approved of bringing polygamous children into the world. We have not, emphatically, any more than we condone or approve the surreptitious sale of liquor on Sunday, although we know it occurs. It is a hard condition to meet, where many things have to be taken into consideration.

"Mr. VAN COTT. Was the lack of prosecution in such cases, in your opinion, due in anyway to sympathy for the men themselves?

"Mr. STEPHENS. Oh, no; not sympathy for the men themselves. It was sympathy for the wife and children, and a realization of the fact that those children were growing up to be men and women, who

would take their places in the community and were entitled to a fair start in life with other children."

* * * * *

"The CHAIRMAN. Is the sentiment universal among Mormons and Gentiles against polygamous cohabitation?"

"Mr. STEPHENS. I think the feeling among the Mormons is quite largely that the men who have contracted plural marriages prior to the manifesto should not be molested in living with their wives since the manifesto.

"So far as the Gentiles are concerned, I would not say that there is a sentiment in favor of their so living. It is a thing we deprecate. I would say there is a sentiment that their families should be made to feel, as far as possible, that they are not separate and distinct from the first wives' families; that is to say, they should have the same self-respect, and should not feel that they were apart; that it is in the interest of good citizenship that they should grow up to be like the others, as I have known very many to do—to marry into Gentile families, and become teachers in the schools, and go to West Point, and—

"Senator FORAKER. Have you stated why there are no prosecutions instituted by Gentiles of the men who are still living in polygamous cohabitation with plural wives taken before the manifesto?"

"Mr. STEPHENS. I have stated in a general way.

"Senator FORAKER. I did not hear all of your testimony.

"Mr. STEPHENS. I said that I agreed with Mr. Critchlow that there is no general sentiment, which has got to be behind a prosecution. But I think the feeling is something like this, if I might illustrate.

"Senator FORAKER. Certainly.

"Mr. STEPHENS. When I was on the board of police and fire commissioners I advocated the unrelenting extermination of gambling houses, because a gambler can take a shovel and go to work. I opposed the promiscuous raiding of houses of ill fame, driving the inmates from pillar to post and out of the city, because when once in that position they can never live in any other way. And I opposed doing it as a matter of humanity, until there was some way provided for them to live. In other words, it was a condition that confronted us.

"Now, in the matter of the offenses of polygamy and unlawful cohabitation, I would prosecute, I would give information to the officers, I would use every means to convict a man of taking a plural wife since the manifesto. But, on the other hand, with reference to the families that are there and that are living in these relations, I do not feel that it is best, on the whole, to ferret them out and bring them to the public attention, for the reason that it will be a thing of the past, if there are no more marriages, when they die. My children, I think, would have grown up to maturity and heard little or nothing about these old conditions, as I prefer they should not, if it had not been for the recent investigations.

"Senator FORAKER. I think I understand you. Do you think your feeling in that respect is pretty general among the citizens of Utah?"

"Mr. STEPHENS. It is so general that there are no prosecutions.

"Senator FORAKER. There is no public sentiment demanding or that would support prosecutions?"

"Mr. STEPHENS. I would not say there is no public sentiment, but there is not sufficient to compel prosecutions." (3, 353, 354, 355, 356, 369, 370.)

Apostle John Henry Smith, whose absolute frankness in all his testimony renders it impossible to doubt the truth of his statements of fact, and who was the president of the constitutional convention of Utah held in 1895 in pursuance of the enabling act, testifies that the leading non-Mormons in that convention took the ground—and he believes every one of them who is living to-day would say so—that it was not their intent or their purpose that anything should occur to destroy the relations then existing between men and their plural wives, to whom they had been married before the manifesto; that this was the spirit of the discussion in that convention; that he presumes he submitted personally his own case to every non-Mormon member of that convention; that prior to that time he had sent his family out of the State of Utah in order that he might not be under the ban of the law of the United States, and that he never brought them back to Utah until he had this tacit understanding with the members of the convention (2, 316, 317).

Senator Smoot's testimony (3, 190, 213, 222) on this subject accords with that of this long array of witnesses.]

MR. WORTHINGTON. And so that situation continued, established as well as anything could be established by human testimony, down to the 6th day of April, 1900. On that day Reed Smoot became an apostle in the Mormon Church.

We are dealing now with the charge of conspiracy, and the evidence thus discloses that, first under the care and protection of the United States of America and afterwards by the general consent of the people of Utah, there had become established there this state of things, and that, as Reed Smoot said, when he became an apostle he not only did not think it his duty to make any effort to break up that existing state of things, but he never thought of it at all.

Where is the testimony that after he became an apostle anything was done in furtherance or in suggestion of this alleged conspiracy? Every one of the higher officials of the church who has been here, most of them brought here by the protestants and put upon the stand by them, and thereby, while subjected to the most rigid cross-examination, held out as credible witnesses, says that this subject has never even been mentioned at any meeting of the apostles or the presidency. It has been by all of them simply accepted as a thing which originated long ago and was passing away. It was not necessary for anybody to take it up.

And it never would have been taken up, and these people would have been allowed to go on and live out their lives in that way without interference, had it not been that a New York newspaper which desired to have information on this subject, sent out into that territory a man who was a hired informer, a man who made it his business to pry around into the households of these people and find out things that the very neighbors did not know, that the man across the street was not aware of, to go, as he himself has testified, when he saw a woman who gave signs of being in pregnancy, and follow her around until she had been delivered, and then make a note of it and put it down in his little book, and to institute prosecutions to stir up the feeling there which the people of

the State did not wish to have stirred up. In that way and by that means this situation which we have before us has been brought before the country and the Senate.

Let me remind the committee also that even in Gentile Idaho, where, according to the admitted facts in the case, the Gentiles, or non-Mormons as I prefer to call them, outnumbered the Mormons in the proportion of four to one, during all this time there ran along a parallel situation, first in the Territory and then in the State; and the non-Mormon community of Idaho not only never prosecuted one of these old people for continuing to live in polygamous relations with a wife taken before the manifesto, but to this day and to this hour there is not even a law on the statute books of Idaho making it an offense for them to so live.

I have stated the facts. It would be enough for me, perhaps, to rest with the facts and to say nothing further.

But certainly it is a matter of interest to know why is it that a great community of American citizens—more than one community of American citizens—feeling as so many of them here testified, just as much the necessity for virtue in the household and for the protection of the home as citizens of the United States living anywhere, have made up their minds to submit to such a state of affairs? What those reasons are can never be fully understood by those who have not lived there. Nearly every witness, when he was asked about it, said "You can not appreciate our situation." Let us see a little about it.

Here is a man who has a wife, a man like Reed Smoot's father, who has a plural wife, who has children by her who are his legal children, his legitimate children, made so by the express language of the act of 1882, readopted and followed by the act of 1887. The act of 1882, which became a law on the 22d of March of that year, provided that all children born of these plural marriages down to the 1st of January following should be legitimate children, giving nine months and nine days for children yet to come. The act of 1887 provided that the children of these plural marriages should be legitimate who had been born between 1882 and 1887, and made legitimate also all those who might be born within twelve months after the passage of the act.

You will perceive that you have here a situation not of a man cohabiting with an adulteress, but of a man who has a wife or wives who in his sight and in theirs is or are just as honorably and truly his wife or his wives as any wife can be the true and honorable wife of a monogamist in the city of Washington, and he had children who were just as much his legitimate children as the children begotten of monogamic marriage anywhere in the United States. Then he was called upon by the law against polygamous cohabitation to do what? Now mark you, Mr. Chairman and gentlemen of the committee, here is where the trouble came. Witness after witness was asked "Can you not take care of those wives and children and support them? You can take care of them. You can act as though there had been a divorce with a provision for alimony, and the children had been given to one parent or to the other, according as the court had found the blame to be, or as the interest of the child or children required, and you may send them by mail or by messenger enough money to support those whom you are not to have with you, but you can not go near them."

"Can you not," said the chairman to a number of these gentlemen, "take care of these women and of their children, but not have fur-

ther children brought into the world?" Why, the Supreme Court of the United States, and the supreme court of the Territory, and then of the State, over and over again, has held that such marital intercourse is not required to make complete the offense of polygamous cohabitation. We had that most pathetic story told here by one of the witnesses about his neighbor next door, that in the days when prosecutions were going on, and when he thought he might be charged with polygamous cohabitation, he came to this witness's house and asked him to call his children to the fence that he might talk to them over it, or his wife, so that he might speak to her; and if one of these children was sick and he had to go into the house to minister to him he had to take his neighbor or some of his friends along to stay while he was in the house.

If the man should go while one of his children was sick and stay with him when he was sick, or if his wife was sick and he went to care for her, recognizing her to be his wife, or if there came a death in that household and he attended the funeral of his child, or if one of his children grew up to marriage and he went there to be present at the marriage ceremony, he committed the offense of polygamous cohabitation, and could be sent to the penitentiary for it.

I make bold to say that not the chairman of the committee nor any member of it, nor any man who has a human heart within his breast, will say that the law against polygamous cohabitation ought to be carried out to its full extent, there or in any other community. What anybody would say, and the least that anybody would say, would be "visit this legitimate child of yours, visit your wife who is the mother of that child, and take care of her and provide for her." So that the question is not, shall the law be violated, for everybody must admit that the law must be violated, but to what extent shall it be violated?

I have been induced, by a paragraph in a newspaper that struck me a few weeks ago, to see how this situation has been treated by Christian missionaries in countries where, unlike Utah, polygamy is in accordance with the law of the land.

You will perceive that the situation which arises in those countries is different in one sense, and is exactly the same in another. In the State of Utah, before 1890, polygamy for many years was against the law of the land, but was not against the law of the church. Into countries, like India and China, where polygamy is lawful and which comprise perhaps nearly one-half the population of the world, the Christian churches send their missionaries; but there polygamy is against the law of the church. This proceeding, we have seen, has been very largely promoted by the Ministerial Association of Salt Lake City, and I would like to compare and have you compare for one moment the way the State of Utah has treated the violators of its laws as to polygamous cohabitation, with the way the Christian churches have treated the violators of the law of those churches, where they have been called to pass upon the same question.

These articles will show you that in the great preponderance of the cases the Christian missionaries and the Christian women in those lands say that when you have a convert to the Christian faith who seeks admission into your church, although it be against the law of your church, admit him with all his wives and all his children and let them live out their lives, provided he does not take any more wives; and

for exactly the same reasons that have brought the people of the State of Utah to that conclusion.

Let me read this for the benefit of the committee, and perhaps for the benefit of some of the ladies who have so patiently and intelligently followed the hearings of this case:

In *The Presbyterian and Reformed Review*, in volume 7, for 1896, there is an article on "The Baptism of Polygamists in Non-Christian Lands," from which I give the following extracts:

"At the regular meeting of the synod of India, held in Ludhiana, November, 1894, among the most important questions which came before the synod was this: Whether in the case of a Mohammedan or Hindoo with more than one wife, applying for baptism, he should in all cases, as a condition of baptism, be required to put away all his wives but one? After a very thorough discussion, lasting between two and three sessions of the synod, it was resolved, by a vote of 36 to 10, to request the general assembly, 'in view of the exceedingly difficult complications which often occur in the case of polygamists who desire to be received into the church, to leave the ultimate decision of all such cases in India to the synod of India.' The memorialists add: 'It is the almost unanimous opinion of the members of the synod that, under some circumstances, converts who have more than one wife, together with their entire families, should be baptized.'

"Not only is it thus the fact that more than four-fifths of the members of the synod of India believe that it may sometimes be our duty, under the conditions of society in India, to baptize a polygamist without requiring him first to put away all his wives but one, but when the missionary ladies present during the sessions of synod, desirous of ascertaining the state of opinion among themselves on this subject, took a vote thereupon, of these thirty-six ladies, many of them intimately familiar with the interior of zenana life for years, all feeling no less hatred of polygamous marriage than their sisters in America, all but three signified their agreement with the majority of synod, of which minority of three, two had been only a few days in India and were therefore without any experience touching the practical questions involved. Nor is this large majority of our missionaries singular in their belief on this subject.

"When some years ago the question was debated in the Panjab missionary conference, in which a large number of missionaries and eminent Christian laymen of all denominations took part, ten out of twelve of the speakers expressed the same opinion as that held by more than four-fifths of the synod of India to-day. So the Rev. Dr. James J. Lucas, of Saharanpur, says that the brethren who maintain the lawfulness of not requiring a polygamist to put away any of his wives as a prerequisite to baptism, 'are not even in a minority in the missionary body in India.'^a A few years ago the Madura Mission voted in favor of baptizing such, provided they had contracted their marriages in ignorance and there was no equitable way of securing a

^aHe says: "I sent to more than sixty missionaries, representatives of different missions, the following question: Would you under any circumstances baptize a convert with more than one wife, allowing him to retain his wives, and to this question came back an answer in the affirmative from the great majority. In fact, missionaries of seven societies answered that they would baptize such candidates, if convinced of their sincerity. Some of these have baptized such converts, while others have been deterred by the rules of their missionary societies."

separation. Their action was disapproved by the American board, but it none the less illustrates again what is the judgment of a large part of those who, living in India, are in most intimate relation to the living facts, and who are thus far better qualified to form a right decision than can be the wisest men at home.

* * * * *

"Again, as bearing on the polygamist's duty, it should be noted that in the great majority of cases among the Hindus the second marriage is contracted because of the first wife having no children. So that when the general assembly requires the polygamist convert to put away all wives but the first, it requires him not only to signalize his conversion by violating a contract held valid alike by his Christian rulers and a large part of his Christian brethren, but to do this in such a way as shall inflict the greatest amount possible of cruel injustice and suffering by turning out of his house that wife who is the mother of his children (who will naturally in most cases have to go with her) and denying to her conjugal rights of protection and cohabitation which he had pledged her.

"The wrong involved is aggravated under the conditions of life in India, in that it will commonly be practically impossible for the wife turned off, whichever she be, to escape the suspicion of being an unchaste woman, and she will inevitably be placed in a position where, with good name beclouded and no lawful protector, she will be under the strongest temptation to live an immoral life. No doubt polygamy is wrong; but, then, is not breach of faith and such injustice and cruelty to an innocent woman and her children also wrong? If there is a law against polygamy, is there not a law also against these things even more explicit and indubitable? In the case supposed both can not be kept. Which shall the man be instructed to break?

"The general assembly of 1875 appears to have imagined that the injustice was done away by enjoining a man to 'make suitable provision for her support that is put away, and for her children, if she have any.' But this utterly fails to meet the case. For the breach of faith required remains, since the marriage contract, both according to Scripture and the law of all Christian lands, as well as of India, binds the husband not only to support, but equally to protection and cohabitation." But by the deliverance of 1875, all missionaries in non-Christian lands are directed by the general assembly to instruct the convert that, in order to baptism, he must keep the compact as regards the first particular, but break it as regards the others. Moreover, the moral end sought will, even so, not be gained. The wife put away may live in a separate house and at a distance—but then polygamists sometimes keep different wives in different homes—and it will not be easy to persuade a Hindu or Mohammedan community, especially if the man still continue to give her money, as required by the assembly's law, that cohabitation really ceases."

In 3rd Brown's, "History of the Propagation of Christianity Among the Heathen Since the Reformation," at pages 564 and 565, occurs the following:

"According to British law in India, 'a Hindu wife or wives can claim full restitution of all marital rights (including cohabitation, domicile, and support) from the husband who has become a convert to Christianity.'"—Letter of C. Golok Nath, esq., B. A., lecturer on law to the Punjab University.

"The subject of polygamy underwent considerable discussion, a number of years ago, in the *Calcutta Christian Observer*. An able writer in that work, after establishing by the same or similar considerations as those now adduced, the intrinsic lawfulness of polygamy, and stating that, though Christianity does not openly condemn it, yet it silently discourages, and will, wherever it prevails, ultimately abolish the practice, thus proceeds:

"The previous lawfulness of polygamy, abstractedly considered, and the course actually adopted by the Almighty for its ultimate subversion, suggests a second remark, that when a heathen man has been legally married—i. e., according to the laws of his own country and religion—to more than one wife, whether any distinction of grade or class of wife, concubine, etc., be observed or not, it does not appear that anything in the character of polygamy itself, or in the institution of Christianity, demands the putting away of any one or more of such women.

"They are his wives; he has promised them duty of marriage, support, and protection. He has no right to diminish aught of their just claims. The merciful provision of the law of Moses, in kindred cases, comes in support of my position. Exodus xxi, 10, commands, even of a purchased slave, whom her master has betrothed to himself, that, "if he take unto himself another wife, her food, her raiment, and her duty of marriage shall he not diminish." And, to apply the case to India: what may be the precise law of the case, I am not sufficiently informed; but, assuredly, there would be great cruelty and hardship in a man who becomes a Christian, having several wives, dismissing all but one, who, even admitting that they may be legally put away, are, by the usages of the country, precluded from marrying another: and who, even if the husband continue to support them (the difficulty of doing which will certainly be much increased when the household is divided), are publicly disgraced and exposed, in deplorable moral ignorance, weakness, and strength of passion, to very strong temptations to pursue evil courses.

"Again, if there are children, whose shall they be—the father's or the mother's? For one parent or the other, they are certainly in this case to be separated. Whose control, instruction, and affectionate intercourse shall they continue to enjoy? Shall they be held legitimate or otherwise? If there are several wives, which shall be retained? The first, it may be replied; but by what law is she more a wife than the second or the third? To these difficulties add the strong temptation held out to an insincere profession of Christianity, for the mere purpose of getting rid of a wife or wives no longer beloved, or whom the husband is weary of supporting; and it appears to me that a formidable mass of difficulties is raised against the position combated quite sufficient to prove it absolutely untenable.

"Under the plea of a previous unlawfulness, supported by no just reasoning, and inculcated by no inspired scripture, helpless women, legally united to men sacredly engaged to love, support, and protect them, are to be ejected from home, from the honors and comforts of wifedom and maternity, exposed to fearful temptations, cruel privation and self-denial, ignominy and solitariness, suffering a disruption of all the sweet ties of domestic intercourse and affection; the education of children is to be neglected, their filial attachments blighted,

and a reward held out to the purest acts of injustice, of selfish cruelty, and impious hypocrisy on the part of husbands and fathers.

"Let no Christian, after he has been admitted into the Christian Church, add unto his wives, or support the practice of polygamy, however usual in his nation and country. But if already a polygamist, let him live as the ancient patriarchs did, in holy and faithful fulfillment of all the duties of marriage, alike with all his wives legally such; let him not for a moment allow himself to entertain the monstrous and unnatural purpose of injuring those he loved, and swore to love forever, who have lain in his bosom, become the mothers of his children, the partners of his joys and sorrows, by putting them away for no original or after-fault of theirs, upon his becoming a Christian."

In *India and Christian Opportunity*, a book published in 1904, the author of which is Harlan P. Beach, M. A., F. R. G. S., in dealing with the general subject of "Problems connected with new converts," the author, at page 222, says:

"1. *Polygamy*.—One difficulty in the way of receiving a professed convert, though affecting only a small percentage of candidates, is a most perplexing one; it is that of applicants who have more than one wife. As Hindoo or Mohammedan they have entered in good faith into marriage contracts with these wives, and if a man puts away all but one, what provision shall be made for the rejected, and on what principle shall he decide as to the one to be retained? While it is a question easily answered in missionary society councils at home, it is a more serious problem at the front. Some good missionaries hold that where the husband is living the Christian life in all sincerity it is better to receive into the church such a candidate—though not eligible to any church office—than to require him to give up all but one wife and thus brand with illegitimacy his children by them, as well as occasion the wives so put away endless reproach and embarrassments."

In *India's Problem, Krishna or Christ*, which was published in 1903, the author of which is John P. Jones, D. D., of southern India, A. B. C. F. M., the author, in dealing with this question, says, on pages 289 and 290:

"In the consideration of the problem many things must be kept in mind. None more important than the claims to a cordial welcome from the church of any man who, in true faith and Christian earnestness, seeks admittance. If it be demanded of the man that he put away all but one of those wives taken in heathenism, then we ask whether it is Christian, or even just, to cast away one to whom he was solemnly and religiously pledged according to the laws of the land and with whom he has been linked in love and harmony for years and from whom he has begotten children? And if he is to put away one or more of his wives, which one shall it be? Shall it be the first wife?

"Certainly that would not be Christian. Or shall it be the second wife, who is the mother of his children and whom he probably married at the request of the first, who was childless, in order that he might raise seed unto himself? It is not easy, on Christian grounds, to decide such a problem as this, nor is it very Christian to put a ban upon any woman who, in accordance with their religion and their country's laws, has formed this sacred alliance with a man and has lived with him for years. Nor can it be right to brand with illegitimacy the children born of such a wedlock.

“I would not allow such persons, received into the Christian church, to become officers of the church. But I can not see why there may not be an humble place in the church of God for such and their families.”

IN THE MORMON CHURCH THE PEOPLE ARE SUPREME.

Now, this extraordinary sentence fell from the lips of Mr. Tayler when he was opening this argument. He said: “One word from the hierarchy would stop this.” I have seen what the people of Utah and what these Christian people think ought to be done under such circumstances. But let us see. Could one word from the hierarchy stop it? And here I trench upon what I might perhaps wish to say at a later stage of this argument. It bears upon the question upon which Mr. Tayler finally plants his whole argument.

He said that the “hierarchy” of fifteen persons are absolutely supreme in the Mormon Church, and he added that the twelve apostles control the fifteen. The testimony, and the undisputed testimony, in this case shows that the organization of the Mormon Church is this: There is at the head of it the president with his two counselors, the counselors having no authority except in the way of advice, and the president, so far as powers are vested in him, acting without reference to his counselors, except as he may consult them as to what ought to be done.

Next in order in the administrative and judicial functions of the church are the presidents of stakes and their counselors. The whole of Utah, and the whole of the territory where the Mormons are, is divided up into stakes. Each stake has its president, and each president has his two counselors and his high council of twelve, corresponding to the twelve apostles. Each stake is divided into a number of wards. Each ward has its bishop, and each bishop has his two counselors.

That is the general organization of the Mormon Church in respect to all its administrative affairs—in the exercise of its general administrative powers as well as in the exercise of judicial functions.

You perceive that in describing this organization nothing has been said about the apostles. They have no place in it. They have nothing to do with it. The apostles are, in the first place, missionaries. Their business is to spread the gospel. They are called the apostles, and they have precisely the same duties that the apostles of old had, to go out into the world and preach the doctrine of the church. They have nothing else in the world to do, except that when the presidency or the president asks their counsel or advice they are required to give it. They have their room where they meet in the temple, and the presidency have their room in another part of the building, where they meet. The apostles have nothing to do with the presidency, and do not come into communion or connection with them at all, unless the presidency have some matter about which they are to be consulted, and then the president and his counselors and the apostles meet together.

When the conference is over the president decides what shall be done, and he may decide to do something which is against the advice of all the apostles and both his counselors, just as fully and absolutely as the President of the United States may accept or reject the advice

of his Cabinet in reference to some matter in which he is called upon to exercise his executive power. In each case the President is the responsible party, and he alone determines what shall be done.

And yet my friend said that the apostles rule the church. If the whole body of the apostles, yea and if the two counselors should unite with them and they should go to the presidency and say: "We want you now to submit to the people at the next conference an order or a proposition that polygamous cohabitation shall be given up, hard as it may be," the presidency, after receiving the advice of all of them, could do just as he pleased about it, and their advice would have no more effect in matter of law—of the church, I mean—than if the advice came from me.

While I am speaking of the Mormon Church, let me say that it is true, as stated by President Smith when he was under examination here, that the Mormon Church is in fact one of the most democratic organizations in the world. In the Mormon Church it is absolutely true, not that the apostles are supreme, or that the presidency is supreme, or that the fifteen are supreme, not even that the church is supreme, but that the people of the church are supreme. No fundamental proposition binding the Mormon Church or affecting them in anywise except as they may please to be affected, of their own free choice and will, can take effect until it has been submitted to the people assembled in one of their great conferences in the tabernacle there at Salt Lake City. Whatever in that regard the president or his advisers wish to have done in the way of changing the law of the church, must be submitted to that conference, and they must sustain it by their uplifted hands, or it does not become a doctrine of the church.

If this very matter which we have here about the proper construction to be given to that manifesto should come up, and the president of the church should say that the real meaning of the manifesto is that it prohibits polygamous cohabitation and we will excommunicate you from the church if you do not give it up, any man who is living with a polygamous wife could say, "The manifesto does not mean that. I was there. I held up my hand to sustain it, and I heard what was in it. It did not prohibit me from continuing to live with my wives. It prohibited me only from taking more wives." What could the president of the church do? He could simply have a charge preferred against the man in his bishops' court and convict him of conduct unbecoming his position as a member of the church. If convicted and excommunicated he could take his appeal to the stake presidency sitting with the high council of the stake.

If the judgment against him should be there confirmed it could be taken to the presidency of the church, where of course it would be confirmed, and from there he could take his appeal to the assembled quorums and the conference of the Mormon people. In other words the people alone can make a law for the church and the people alone can finally expound the law. (3, 24, 45, 46.)

Hence no man can be turned out of the Mormon Church, if he chooses to exercise his rights, until the people of the church have excommunicated him, and no man can be required to enter into any polygamous relation or to abandon any polygamous relation until the people of the church have said: "This is the law." "Thus saith the Lord," said my friend; but as all the books of the church tell you, and

as all the witnesses here tell you, even if their president, whom they believe to have the power of communication with the Almighty, comes before them and says "I have a revelation from the Almighty in which he tells me that this practice of polygamous cohabitation must be given up," in order to give it any practical effect he must submit it to the conference in the tabernacle assembled, and receive the approval of the body of the Mormon people.

I say then that in the Mormon Church the people are supreme; and this established custom in reference to the cohabitation of those who took plural wives before 1890 can not be disturbed unless the people say it shall be done; and when they say it shall be done, it must be done.

PUBLIC OPINION STRONGER THAN LAW.

Let us next consider whether, as Mr. Tayler seems to contend, a member of the Senate shall be expelled even if it be true that a considerable number of his constituents are violating the law of his State and he is doing nothing to put an end to such violations and perhaps sympathizes with the offenders.

My friend says that is the higher law. He invokes you to put Senator Smoot out of the Senate because he appeals to a higher law. Senator Smoot has not said anything of the kind. He has always obeyed the law. There is nothing here to show that he stands on anything of that kind. But suppose he did. It would not be the first time in the history of this country that men in high places, and whole communities, have said that there is a law higher than that which is in the written statutes. It is not the first time even that it has been heard that even the Constitution of the United States should not bind whole communities.

Why, let us remember the days before the civil war, when attempts were made to enforce the fugitive slave law throughout the North—a law which had been passed in pursuance of a provision of the Constitution. Do we not all know that hundreds and thousands of people in the North—and perhaps I might be permitted to say some of the best men in those States—said they would not obey that law, and they would do everything they could to prevent a slave being taken back to his slavery; and men of the highest standing in those communities, when referred to the Constitution of the United States, denounced it as a covenant with hell.

Do we not all know that after the war was over and the Union had been again restored there was a provision put into the Constitution that no man should be deprived of his vote by reason of his race, color, or previous condition of servitude? And do we not know that, although that is still a part of the Constitution of the United States, whole communities of people affected by it—the poor man, the rich man, the workman, and the laborer, and the men in the highest offices in the State—have proclaimed and have carried into effect their proposition that whatever the Constitution or the laws may say white men will not submit to be governed by negroes?

And I would like to know what would be thought of the proposition, if it should be presented here, that if a member of this body should say that he sympathizes with that feeling for that reason he should be ejected from the Senate of the United States?

Again, all over this country—and I would rather refer to what hap-

pens all over it than what happens in any particular section of it—every year, and year after year, men are taken by mobs and hanged or shot, because, in general, of the commission of a certain offense which people will not submit to have brought before the courts in the regular and orderly administration of justice, for the reason that the injured party in the case must, if that is done, be put in the agonizing position of being brought before a court and examined and cross-examined about the details of the terrible occurrence. I would like to know if a Senator of the United States would be expelled from the Senate if he should, perchance, happen to say that if it was his wife or his daughter who was put in such a situation he would not find fault with the mob for putting to death the man who had maltreated her.

Nay, Mr. Chairman and Senators, I will bring you to a situation which is nearer to the present case than that, and I will show you, by the fallacious argument which my brother here is trying to enforce against Senator Smoot, that if his law be good there would not be a seat in the Senate of the United States which would have an occupant. Let me go with you to that window, Mr. Chairman, and I will point you to a section of this city given up to the violation of the laws relating to sexual offenses. I will show you a part of the city which is measured off by your police, where disorderly houses are kept which are in violation of law, and which everybody knows are in violation of law, and I will show you that with that knowledge, year after year, you have “sustained” by your appropriations, officers who are permitting the law to be violated in that way.

Why, Mr. Chairman, a few years ago in this little jurisdiction of ours, the chief of police, with the aid of the men who were appointed by virtue of laws passed by you, undertook to take measures against those houses, and, as a part of it, had his detectives watch persons who were going to them; and when that had been done and the names of some of the parties who had been discovered going to that neighborhood were made known, such a storm of indignation was aroused, not only in this community, but in the Halls of Congress, as never has been seen on any other occasion in my day. The result of it was that that chief of police who undertook to carry out the laws which you had had him appointed to perform, and undertook with his officers to spend the public money in the way which you had directed it should be spent, had his official head thrown in the basket. From that time to this no man has undertaken to enforce that law in the District of Columbia, and the members of the Congress of the United States, according to the reasoning of my friend, are guilty of a criminal conspiracy to have the law disregarded and crimes committed because, knowing, as everybody knows, that such things are done, they do nothing to stop it.

I might go on and suggest case after case of that kind where it is seen that the statute law is not always that which governs in this country. It is not that which governs any place on the face of the earth. There is a higher law, and that higher law is the law which is called Public Opinion. When Public Opinion is against the enforcement of a law it dies. Every man who takes up his Blackstone learns, and every time he goes to a law school learns, that there are upon the statute books laws which are absolutely obsolete and for that reason can not be enforced, although they never have been repealed.

When you find that there is a statute upon the books, no matter how solemnly passed, no matter though it be the Constitution of the United States, which is against the public opinion of the people, or against the public opinion of a particular jurisdiction, you will find that it is impossible to enforce it.

Now, that is all there is in the situation in Utah. There the people, who have seen the situation and appreciated the condition of these people who took wives before the manifesto, have simply said, "If they live in the way they have lived and do not obtrude this matter upon the public, do not require them to abandon the wives and children; let the matter go along." And all that Reed Smoot did when that situation was brought before him, when he became an apostle, was to accept it, and to do nothing about it, as the Gentiles and the other Mormons with practical unanimity in that State were doing nothing.

Mr. Tayler recognizes this difficulty. It was obvious from almost the first sentence he spoke that he saw it. He said: "This is not a question of morals: this is not a question of obedience to law. It is a question of whether a man or a community shall be permitted to violate the law because required to do so, as they think, by direct communications from the Almighty." He has planted himself upon that proposition, and from the first sentence of his argument to the time he took his seat that was all there was in it. He has practically abandoned everything else.

You would suppose from that argument that the Mormon Church and Senator Smoot have been daily receiving communications from the Almighty instructing them what to do, and doing it. As a matter of fact, as Mr. Van Cott well said, Reed Smoot has never received any revelation at all. He simply believes he may receive one; and I call your attention to the remarkable fact that in the last twenty-three years the Mormon Church has not received and has not claimed to receive any revelation from the Almighty except one, and that one is the revelation which said that polygamy should be stopped. (1, 289.)

It does not seem to me that in the practical operation of that belief of theirs there is any trouble of which we can take cognizance at the present time.

The committee (at 4 o'clock and 15 minutes p. m.) adjourned until Saturday, January 28, 1905, at 10 o'clock a. m.

WASHINGTON, D. C., *January 28, 1905.*

The committee met at 10 o'clock a. m.

Present, Senators Burrows (chairman), McComas, Foraker, Beveridge, Dillingham, Hopkins, Knox, Pettus, Dubois, Bailey, and Overman; also Senator Smoot; also Robert W. Tayler, counsel for the protestants, and A. S. Worthington and Waldemar Van Cott, counsel for the respondent.

ARGUMENT OF A. S. WORTHINGTON—Resumed.

Mr. WORTHINGTON. Before resuming the thread of the argument where I left off yesterday, there are one or two matters to which I wish to refer. One of them relates to what we think is a most extra-

ordinary error into which Mr. Tayler fell yesterday when he was answering one of the questions propounded to him by Senator Knox. He said that the apostles are really the church, because while the president is nominally the head of the church the apostles may remove him.

I went yesterday somewhat at length into the matter of the organization of the church, and showed that, as a matter of fact, the apostles have nothing to do with the administrative business of the Mormon Church or with the judicial business which sometimes comes before it. An apostle may, of course, be specially designated by the president to attend to some particular duty in one of the stakes.

In reading over this morning the remarks of Mr. Tayler in reply to the question referred to, I see he made this statement on the authority of President Joseph F. Smith; and we are at once referred to the passage in the record that he had in mind, and his recollection of which misled him. Joseph F. Smith said (1, 92) that when there is a vacancy *in the quorum of the apostles* it may be filled by the apostles without consulting the presidency, but that, as a matter of fact, they did not do that and ordinarily would not do it.

He did not say or intimate, nor did anyone else say or intimate, that the apostles have anything to do with the removal of the president. On the contrary, the evidence shows that when a new president is appointed to fill a vacancy caused by death or otherwise, the proceedings are not as in the case where the president, at the regular semiannual conference, is simply sustained to continue in the office he already holds, but that when a new president is to be put into office all the different quorums, with the people, are assembled in the tabernacle. The name of the new president is presented by the apostles, or by some one of their number, the apostles being during the interregnum the heads of the church (3, 28).

Then each quorum votes separately upon the question whether the person so nominated shall be accepted as the head of the church. The apostles vote, then the seven presidents of the seventies, then the high priests, and so on, through all the quorums. Then, when the quorums have voted, the people are called on, and if all these bodies sustain the nominee he becomes the president, the official head of the church, and not until then. And, without any question or suggestion from anybody else, it seems to me it is manifest that it would be ridiculous to suppose that any one quorum could remove one so sustained. I am sure that Mr. Tayler on reflection will admit that he was in error in the response he made to that particular question.

Another preliminary thing: There are printed in the principal protest, which is filed here, a number of extracts, or what purport to be extracts, from various discourses by various church officials, or from various books which are supposed to have been issued by persons who held high offices in the church; and I want now carefully to warn this committee that they must not read any of those quotations in that protest and accept them as correct.

When the hearing was closed here on the part of the protestants, it was agreed that, without troubling the committee about the matter, some one representing the respondent should sit down with Mr. Owen, who had been delegated to that duty by Mr. Tayler, and find the original documents, and make comparisons, and that then the documents or

the extracts therefrom, having been properly compared, should be put in evidence. That having been done, the extracts were inserted in the record, and they will be found, beginning on page 448 of the second volume. Those which are in the protest are not evidence.

I am informed by one of those who made the comparison on our part that in hardly any case was it found that the quotation as given in the protest was correct. In the particular instance to which I especially call the attention of the committee, where a discourse is attributed to President Smith, in which he is made to say, as the quotation is given in the protest, that when he received directions from the Almighty *to vote for* any particular person he would do it without regard to what he might think about it (vol. 1, p. 2), the words "to vote for" have been inserted by some person. They are not found in the original discourse.

Then there is the matter of the witness Nicholson. Mr. Tayler has referred to that man as one who exhibited in his testimony here the fact that the Mormon Church obeys the commands of God against the orders of this committee in its subpoenas.

I must remind the committee that Mr. Nicholson was shown, by the certificate and afterwards by the testimony of Doctor Sowers (2, 83; 3, 378), to be in such condition that it was impossible for him to give reliable testimony in any important matter.

I am sure Mr. Tayler will permit me to say, although it is not in the record, that before Mr. Nicholson was put upon the stand Mr. Van Cott and I went to see him and explained the matter, and he told us that Mr. Nicholson would be asked a few simple questions.

Thereupon he was put on the stand, and some members of the committee—I have been told since that they did not know the witness's condition—started an examination which lasted for an hour or more. The condition of the man, which made it impossible for him to understand or readily answer questions, might seem to the committee to have put him in the position of evading them.

Mr. Nicholson was asked if he would produce a certain book, and he replied that he would not unless permitted by the president of the church. It struck me that that would be about the kind of a proceeding which would take place if this committee were to call upon one of the banks of Washington to produce any book of the bank. The clerk or other officer who had physical possession of the book would go to the president of the bank and ask what he should do, and if the president, on consulting counsel, should advise him that it was not a book which the committee had a right to have produced before it, the legal question would be tested in a legal way.

I will remind the committee again that in the case of Hallet Kilbourn, when such a subpoena was issued under the authority of the House of Representatives and he refused to obey the subpoena and produce books or answer any questions in regard to what was in them, proceedings were taken against him to enforce compliance with the mandate of the House, and they resulted in complete disaster to the House in the courts and to a good deal of financial loss to the Government in the payment of damages for Kilbourn's incarceration.

Let me say again, finally, before I go on further, that we recognize the fact that the members of the committee may desire to have special references to some particular topic, and after we have finished our

arguments if the committee or any member of the committee wishes to be furnished with references to the evidence, bearing upon any particular question of fact in this case, we will be only too glad to supply them.

OTHER OBJECTIONS.

I proceed now to go on with what I was considering yesterday—the objections which have been made to Senator Smoot retaining his seat; and the first one about which I wish to say a word is the fact that he voted to sustain President Smith at the last October conference, after the testimony which President Smith had given here, and that he voted to sustain other apostles who had given like testimony. There is very little to be added to what Mr. Smoot said upon that subject. He said that in his judgment the law of the church had not been violated, because the law of the church does not prohibit men who have taken wives before the manifesto from continuing to live with them; and that as a member of the church he did not see why he should undertake to punish a man in a church office or in a church matter when the church law had not been violated.

He also said that he voted to make Penrose an apostle, a vacancy having occurred a few months ago, and Penrose having been appointed to fill the vacancy at the last October conference. I ask you to bear in mind that while Mr. Smoot said that he did not wish to hide behind that fact, to use his language, as a matter of fact he did not know that Penrose was a polygamist.

Mr. Tayler also referred to the fact that Mr. Smoot had allowed Mr. Cluff to remain in office for two or three years as head of the Brigham Young University, a church institution. The facts were fully explained by the Senator; that as soon as it came to his notice that it was understood that Cluff had taken a recent plural wife in Mexico, inquiries were made of Cluff by another member of the board to which Mr. Smoot belonged, and upon his giving an evasive answer, they came to the conclusion that the charge was true, and decided at once upon his successor, Mr. Brimhall. The only reason that Cluff was not at once removed was that Mr. Brimhall was absent on account of his health. As soon as he recovered the change was at once made.

It seems to me that in undertaking to hold one who is presented as a Senator responsible here for his action in such cases it is a serious question whether the State is not undertaking to do that of which complaint is made here against the Mormon Church—mingle the affairs of church and state. In other words, it is equivalent to saying to Senator Smoot, "If, when in your church matters, a certain man is presented for an office, you will vote that that man shall not take that office," and so with a certain set of men who may be up for church offices, "you may come and take your seat in the Senate."

"But if you exercise your independent judgment in the matter, and say that you think that, notwithstanding what those men have done, in view of the situation in the State of Utah and the way that other people are treated by the Mormons and non-Mormons throughout the whole State, it is best that those men should not be dropped (as they can not finally be dropped without a trial before the church courts and final condemnation), then you must stay out of the Senate." It seems to me that that would be an attempt by the United States to regulate the affairs of the Mormon Church, and to say who shall be its officers and

who shall not, and therefore you would practically fall into the very error for which counsel here have condemned the Mormon Church.

In reference to these matters of difference between church law and State law, let me remind the committee also that even the religious organizations, some of which participated in the preparation of this protest, put themselves in precisely the same condition. The Congress of the United States passed a law many years ago that in the District of Columbia divorce might be obtained for cruelty, or desertion, or drunkenness for a certain term, or for adultery.

A great many divorces were obtained here, and great complaint was made about the law, and ministers of churches here in council assembled openly proclaimed that whatever the law might do, the church, except where the divorce was for adultery, would not recognize those people as being divorced; and women who by the law which this Congress enacted had been declared entitled to remarry and live an honorable life in the face of the community with a second husband, were held by some ministers and churches—and it may be very properly, for it is a part of their duty, if they think so—to be adulteresses. In the Roman Catholic Church a woman who has obtained a divorce from her husband because of his adultery may not remarry during his lifetime, on pain excommunication.

Then there is a suggestion made here, as I understand—I do not know that Mr. Tayler has particularly enforced it—that it is not proper that a high ecclesiastical officer of any church should come to Congress. One of our witnesses, Mr. Stephens, expressed himself to that effect. It appears that throughout the campaign which resulted in the election of the legislature which sent Mr. Smoot to the Senate that was a matter which was very much referred to in the discussions, and most of the witnesses upon that subject have said that they thought Mr. Smoot was injured more by the fact that he was an apostle than he was benefited by holding that office.

Is it seriously to be contemplated that the lawyers, let us say, who compose the great majority of this committee and, perhaps, the majority of the Senate, would say that if a member of another of the learned professions were sent here by one of the States of this Union to represent it he ought not to be seated. I can not think that. It would be in the nature of a political manifesto emanating from the Congress of the United States which would throw quite into the shade the political manifesto of the Mormon Church involved in the case of Moses Thatcher.

The next objection personal to Senator Smoot to which I shall refer is one which was discussed by Mr. Van Cott—the fact that he obtained the “consent” of the president of his church before allowing his name to be used as a candidate for the Senate. It seems to me that when you take that political manifesto about which so much has been said here and look to its substance, it is impossible to reach any conclusion in reference to it except that its purpose, and the only object which it could accomplish, is to prevent high officers of the church from retaining their offices under certain circumstances except with the consent of the church, and not to say that such an officer shall not run for any office he pleases without the consent of the church. Everybody admits—the manifesto itself in effect says (1. 168, 169)—that if a high officer in the church wishes to run for an office and applies for leave of absence and the church does not think it can spare him all he has to do

is to say: "I am going to run for the office whether you consent or not. I tender my resignation of the church office."

If Congress shall say to the church you can not enforce such a rule, then Congress would be interfering with the church by requiring it to keep men in office when the church itself has held that they shall resign. Instead of the church attempting to regulate affairs of state the State would be regulating the affairs of the church.

I want now to recur to the last objection made to Senator Smoot. When I listened to it yesterday it struck me with amazement. I read it over again this morning in the stenographer's report to make sure there was no mistake; and I do see that so eminent a counselor, so able a man, one so experienced in public life as Mr. Tayler, has seriously and solemnly asked the Senate of the United States to rule that, if a citizen of the United States believes that when he goes into his closet and prays to God for guidance his God can hear him and may answer him, that man ought to be excluded from a seat in Congress, because he will be here to carry out the decrees of the Almighty.

Now, I had supposed until I heard that that nobody would deny that a man, to use the words of my Brother Tayler, who believes in a good, all-wise, and all-powerful Creator, can not do better in all the affairs of life than to seek the counsel of that Being and to abide by His judgment. I had supposed that it was the universal understanding of all Christian churches that the very foundation of their religion is that a man who believes in that great and good God ought to go to Him for advice and counsel. I know that in the Episcopal Church, and probably in many other churches in this city, the children are taught a certain hymn, as to which Mr. Tayler would say that if they sang it understandingly they would have to be told that they were disqualifying themselves for a seat in the Congress of the United States. The hymn reads:

God of Mercy! throned on high,
Listen from Thy lofty seat;
Hear, oh, hear our lowly cry;
Guide, oh, guide our wandering feet.

And yet we are told that if Reed Smoot, when some question of grave State concern is before the Senate, should retire to his closet and commune with the Almighty for advice as to what he should do for the best interests of the country, and should think that the Lord gave him counsel in answer to his prayer, and should undertake to let his wandering feet go in the way in which the Lord had directed, he ought to be expelled from the Senate. I should like word to be carried back to the ministerial association which had something to do with the origin of this case and for aught I know may have something to do with its prosecution, that for the purpose of carrying out the effort which it started, to have a member of the Mormon Church evicted from the Senate of the United States, it has been found necessary for their representative to come here and say to the people of all the churches all over the United States "If you go and pray to the Almighty for guidance, and believe you get it, and act upon it, you can not sit in the Senate of the United States."

PLURAL MARRIAGES SINCE MANIFESTO.

Now, I want to consider for a few moments the question whether as a matter of fact plural marriages have occurred since the manifesto

and since the admission of the State into the Union in such numbers as to show that the manifesto and the pledge made to the United States when the State was admitted are being carried out in a colorable way only and not in good faith.

In the report to which I have referred so often, which Mr. Tayler made as chairman of the special committee of the House of Representatives in the Roberts case, he said, what all men would agree with, that though there might be some sporadic cases of plural marriages after the admission of the State, it is not a matter about which the United States would concern itself, because that might reasonably be expected. We know that in every community there are cases of bigamy frequently coming before the courts, and anybody would suppose, without being informed about it, that in a community where for many years polygamy had been practiced, there might be more bigamy cases than there would be in another jurisdiction.

Mr. Tayler, on page 239 of the record (vol. 1), had this colloquy with Senator Hoar. Mr. Tayler said:

"We expect to show that many plural marriages have been solemnized in Utah since the manifesto of 1890. The statement that it was not done by the sanction or authority of the church I do not know that we can contradict.

"Senator HOAR. You neither admit nor deny at present?

"Mr. TAYLER. We expect to prove that plural marriages of people who held official positions in the church have occurred, and that the church must know about it, whether they countenanced it at the beginning or by their higher officials solemnized it.

"Senator BEVERIDGE. And that therefore Mr. Smoot must know that.

"Mr. TAYLER. I can not connect Mr. Smoot with every sentence I utter. Of course Mr. Smoot is a part of this hierarchy, and we have got to weave this thing as one fabric and not as continued separate threads.

"Senator HOAR. That is, that this nonabandonment of polygamy you expect to show is so general as to satisfy us that it is colorable or pretended and not real.

"Mr. TAYLER. Precisely."

Afterwards there was put upon the stand by the protestants Judge Hiles, a lawyer of Utah, a man prominent and highly esteemed in every way. He was asked the question whether he knew of any plural marriages occurring in the State after the manifesto. He said he knew of one. "Who is it?" "It is a friend of mine." "How do you know it?" "I saw him out on the streets of Salt Lake City, driving in a carriage with his wife and a little child, the child born long after the manifesto, and I think from the age of those people they must have been married after the manifesto." "Well," said we, "who is the man; give us his name and we will find out, if we get the name of that man, whether he was married before the manifesto; and if we find that he was married afterwards, we will have this committee bring him here and find out who married him, and the church will deal with him."

Judge Hiles said: "I do not want to give that man's name, because he is a friend of mine." The chairman of the committee said he need not answer; and he did not answer. And the word goes back to the heads of the church, who are held liable for not finding out the facts about these alleged recent plural marriages, that the committee itself

excuses a witness from giving information on the subject because the supposed criminal is the witness's particular friend!

In connection with that subject Mr. Tayler immediately said:

"I ought to state here that we do not claim that Judge Hiles knows anything on this subject. We have a large body of proof upon that point—

"Senator HOPKINS. Very well.

"Mr. TAYLER. Ready to be presented to the committee." (1, 698-702.)

Let me see what the church has been doing about it. I was asked by a Senator to address myself particularly to the matter of what the church has been teaching in regard to polygamy. The manifesto, as we see, was issued and became a law of the church, and was publicly proclaimed on the 6th of October, 1890, being formally submitted to the body of the people and accepted and adopted by them; and two years afterwards, as I remember it, or the following year, at the regular annual conference it was again submitted to the people and again approved by them.

On the 8th of January, 1900 (and I read from page 483 of this record, volume 2), when there could have been no question about affecting the result of the candidacy of an apostle for the Senatorship, because it was long before Reed Smoot was in the race for the Senatorship and several months before he was an apostle, the president of the church, Lorenzo Snow, published in the official organ of the church, the Deseret News, of the same date, the following:

"From the reading of the various editorials and articles of the public press it is evident that there is much misconstruction and misunderstanding as to the present attitude of our church respecting the subjects of polygamy and unlawful cohabitation; and, believing that many good and conscientious people have been misled and much adverse criticism occasioned thereby, I feel it but just to both Mormons and non-Mormons to state that, in accordance with the manifesto of the late President Wilford Woodruff, dated September 25, 1890, which was presented to and unanimously accepted by our general conference on the 6th of October, 1890, the church has positively abandoned the practice of polygamy or the solemnization of plural marriages in this and every other State, and that no member or officer thereof has any authority whatever to perform a plural marriage or enter into such a relation. Nor does the church advise or encourage unlawful cohabitation on the part of any of its members. If, therefore, any member disobeys the law, either as to polygamy or unlawful cohabitation, he must bear his own burden; or, in other words, be answerable to the tribunals of the land for his own action pertaining thereto."

And last April, after the matter had been brought to the attention of the people—

Senator HOPKINS. What is the date of that?

Mr. WORTHINGTON. January 8, 1900. Reed Smoot became an apostle on the 6th of April following, and he was elected to the Senate in January, 1903.

As I was about to say, last April, after President Smith had been here and had been examined, and while this hearing was still in progress, President Smith again submitted to the conference, and it was approved by the conference (3, 46), a proclamation to the same

effect, and if anything, more emphatic, in which it was declared that any member of the church who entered into that relation after the publication of the manifesto did it without the sanction of the church and that "if any officer or member of the church shall assume to solemnize or enter into any such marriage he will be deemed in transgression against the church, and will be liable to be dealt with according to the rules and regulations thereof and excommunicated therefrom."

The evidence here shows that a copy of that proclamation was sent to Provo or some place where Senator Smoot was, after he returned home, with a letter from Apostle Lyman, and that he read the letter of Apostle Lyman and the proclamation to a company of his people and informed them that this was a matter which was important and which must be attended to and could not be slighted (2, 90).

On the question of plural marriages since the manifesto, I wish to say that in this record there is the testimony of a cloud of witnesses—some of the best men in the State of Utah and in the State of Idaho—as to the situation there, which, when it is taken up and considered demonstrates beyond the peradventure of a doubt that the polygamous families are growing less and less every year by reason of the death of the old men who are the heads of the households or of their plural wives, and that in a few years polygamy will be practically dead.

And these same Gentiles all tell us that the feeling is so general, not only among the non-Mormons, but among the Mormons of the younger generation, those of the age of Reed Smoot or under, against the practice of polygamy, that they have not a particle of doubt—and Mormons have testified to this as well as non-Mormons, witness after witness—that if the president of the church should undertake to say that he had received a revelation from the Almighty that the practice of polygamy should be renewed, and he undertook to force it upon a general conference, it would disrupt the church.

I will briefly refer to the evidence showing that polygamy both in Idaho and in Utah is fast dying out and that the members of the church generally, except some of the older ones, are so opposed to it that it would be impossible to restore it.

George Reynolds testified that polygamous cohabitation is very rapidly decreasing in Utah (2, 50).

William Budge, president of the Bear Lake stake, which comprises one of the principal Mormon counties in Idaho, said that he has never learned personally or by information of any man in Idaho living with a plural wife to whom he was married after the manifesto (2, 271).

Ex-Governor McConnell testifies that in Idaho polygamy is decreasing; that as the years go by the old men are dying and the old ladies, and that he does not think there are any new polygamous marriages being contracted (2, 509).

In support of this, Governor McConnell gives an extract from the Congressional Record of February 5, 1903, in which Mr. Dubois, one of the Senators from Idaho, said:

"I live among those people; and, so far as I know, in Idaho there has not been a polygamous marriage celebrated since that manifesto was issued, and I have yet to find a man in Idaho or anywhere else who will say that a polygamous marriage has been celebrated anywhere since the issuance of that manifesto.

"MR. HALE. Then, it must follow from that, as the years go by and

as the older people disappear, polygamy as a practice will be practically removed.

"Mr. DUBOIS. There is no question about it" (2, 511).

In the same debate it appears that when Senator Dubois was asked by Senator Beveridge if there was any statute in certain Territories against polygamy he replied that he did not know and that he did not care, and added: "I have stated as plainly as I can that there is not any polygamy. So what is the use of having a law against something that does not exist?" * * * "If my statement on that point is not true, of course none of my statements are true. I mean my statement that polygamous marriages are not sanctioned or contracted by the Mormon Church" (2, 512).

Attention is particularly invited to the reasons given by Governor McConnell for his conclusion that there are no new polygamous marriages in Idaho (2, 522).

He also quotes from a letter written by Mr. Borah to Senator Dubois on October 6, 1904, challenging the Senator to find a single man living in polygamy in Idaho where the marriage was contracted after October 6, 1890, and promising that if such a case was found, Mr. Borah would prosecute it to a conviction. It appears that no answer was ever made to this challenge (2, 523, 524).

Mr. Holzheimer also quotes the foregoing passage from the remarks of Senator Dubois in the Senate to the effect that there had been no polygamous marriages in Idaho since the manifesto, and adds that this is the opinion which the Gentiles, including himself, in southern Idaho had in February, 1903, when Senator Dubois made the speech in the Senate from which the witness quoted; and that that is the opinion that the Gentiles in southern Idaho still have (2, 572). Mr. Holzheimer lives in a Mormon county.

Mr. Martin stated that he thinks 80 per cent of the Gentile people in Idaho believe that the Mormons are not contracting any new polygamous marriages, and that the only polygamy there now is practiced by those who were married before the manifesto (2, 622).

Mr. Whitecotton says that in the neighborhood of Provo, where he lives, the number of polygamists is very much smaller than it was in 1890 (2, 685).

Mr. Booth, who lives in Salt Lake City, testifies that in his judgment there are not more than one-fifth as many polygamists in Utah now as when he went there in 1898, and that the polygamists are mostly old men (2, 718, 725, 726).

Mr. Pratt testified that there is no question about the decrease in polygamy in Utah—that the decrease in that direction has been marvelous since 1890, and all that could be expected (2, 744).

Mr. Dougall testified that in his town of 3,500 inhabitants he can think of but five men who are living in polygamy; that this is a much smaller number than were so living in 1890, and that he does not know even by reputation of any polygamous marriage in that neighborhood since 1890 (2, 757).

Mr. Noon, who lives at Provo, says that he has not known by reputation or otherwise of any polygamous marriage in that vicinity since the manifesto (2, 772).

Mr. Hatfield, who spent thirty years in the mining regions of Utah, and then went to Salt Lake City, where he has lived for the last seven

years, says that he has not known by reputation or otherwise of any new plural marriage, either in the mining region or in Salt Lake City, since 1890, and that he thinks polygamy is dying out (2, 785).

Mr. Meakin, who is perhaps better acquainted all over the State than any other witness in the case, and who left the Mormon Church when he was 23 years of age because he did not believe in polygamy, testified that one-third of those who were living in polygamy in 1890 have passed away, and that he does not know personally or by general reputation of any new plural marriages (2, 798).

Judge Miner says that while he has heard of rumors of a few plural marriages since the manifesto, as a general thing, both from his own observation and from general reputation, he would say that polygamous marriages have practically ceased since the manifesto, and that polygamy is dying out (2, 717).

Mr. Elias A. Smith, who has lived in Salt Lake City all his life, testified that there have been no plural marriages since 1890 to his knowledge (2, 852).

Judge McCarty, when asked whether as a matter of fact the number of people living in polygamy has decreased in Utah since 1890, replied that the change has been phenomenal; that in the little town in which he resided for twenty years (Monroe, Sevier County) there must have been in the neighborhood of twenty polygamists, and that now he can call to mind but three of those old men who are living (2, 888).

Dr. Condon, who lives at Ogden, the second largest city in Utah, and who is a physician of large practice in obstetrical and other cases, says that since 1890 he has known of but one birth to a reputed polygamous wife (2, 937). He testified further that polygamy is dying out, and that in his opinion it is marvelous how rapidly it is passing away (2, 942, 943).

Colonel Young says that his general impression is that the decrease of polygamy in Utah in the last fourteen years has been very rapid (2, 957).

Mr. Glen Miller testified that death has gradually removed a majority of those who practiced polygamy at the time of the manifesto; that in ten or fifteen years the last of those who have practiced polygamy will be removed; that the progress in that direction in the last fourteen years is more than could have been expected (3, 161).

John W. Hughes, the publisher of a weekly paper in Salt Lake City, stated that within two weeks before he testified he had an investigation made as to the number of polygamists in that city, which has a population from 70,000 to 75,000 people; that he found there were 74 polygamists then in that city, more than 50 of whom were over 60 years of age; that the progress made in this direction, although there have been a few lapses, has been marvelous (3, 164).

Judge Powers, for the protestants, testified that if there are any polygamous marriages at the present time his opinion is that they are sporadic cases (1, 885), and that the great proportion of the polygamists are elderly men. This of course clearly indicates that the evil is rapidly passing away.

Joseph F. Smith over and over said in the most positive terms that since the manifesto no plural marriages had been performed to his knowledge, and that none could be performed with the sanction of the church because the power to celebrate such marriages had been taken

away (1, 129, 130, 143, 178). He said further on this subject: "But I do know that when we have heard rumors, such as have been published by the anti-Mormon press, that there were marriages going on, the question has been broached many times in our councils, and invariably it has been resolved in our councils that all such things must stop if they had not stopped, and so far as we were concerned, we knew of no such things occurring, and if anything of the kind did occur, it was without our knowledge or consent or approval" (1, 360).

Senator Dubois in the speech which he made in the Senate on the 5th day of February, 1903, in referring to the manifesto, said:

"Various causes operated to cause the Mormons to abandon polygamy. There was a feeling among the younger members of the Mormon Church, and a very strong feeling, that polygamy should be done away with. So here was this pressure within the church against polygamy and the pressure by the Government from outside the church against polygamy" (2, 510, 511).

Mr. Holzheimer testified that the sentiment of the younger Mormons is absolutely against the practice of polygamy; that he knows this from personal contact with them for a number of years, and that by young Mormons he means both young men and young women (2, 575).

Mr. Martin testified that in the campaign of 1904 in Idaho, he discussed this matter of polygamy a great deal with the Mormon people, especially the younger Mormons, and that they all expressed themselves as against it—as glad that the church stopped it (2, 607).

Mr. Brady states that the young Mormons in Idaho are just as much opposed to polygamy as anybody, and that "they propose, just exactly as Senator Dubois says, to wipe this out themselves" (2, 655, 666).

Mr. Whitecotton testifies that in traveling over the State of Utah he has found that the decided sentiment of Mormon people in Utah is hostile to polygamy (2, 672); that all the Mormons are sick and tired and disgusted with polygamy, and want to get rid of it (2, 679).

Mr. Booth says he believes polygamy is as dead as slavery, and among his reasons for so thinking is that 98 per cent of the Mormon people are against polygamy; that for several years the sentiment of the younger members of the church has been against polygamy; that since the manifesto of 1890 polygamy has been rapidly dying out; that he has among his acquaintances many prominent young Mormons about his age (44 years) or younger; that he has heard them say with great emphasis that if they believed the church sanctioned any plural marriages since the manifesto, they would leave the church immediately; that he believes that to be the general sentiment of the younger members of the Mormon Church; and that in his judgment if the president of the church should undertake now to bring forward a new revelation restoring polygamy, there would be an immediate revolution in the church; that polygamy is dead without reference to the law (2, 714, 717, 718).

Mr. Pratt testified that, in his opinion, among the mass of the Mormon people they are opposed to polygamy (2, 745).

Mr. Lynch says that, in his opinion, the sentiment among the young Mormons is that they want to do away with polygamy (2, 753).

Mr. Noon, who says he long ago drifted away from the Mormon Church, states that the young Mormon people are glad to get rid of polygamy, that they consider it an incubus, and that in his opinion

they would not accept a new revelation repromulgating polygamy if the president of the church should undertake to bring one forward (2, 772).

Mr. Meakin, who left the Mormon Church because he did not believe in polygamy, and who has traveled very extensively all over Utah, says that the Mormons in the State generally are pleased that polygamy is a thing of the past; that this is the sentiment not only of the young Mormons but of the middle-aged Mormons; and that, in his opinion, if the president of the church should undertake now to bring forward a revelation reestablishing polygamy in the church, the Mormon people would not stand it for a moment (2, 798).

Mr. Cole, a Gentile at Corinne, in the northern part of Utah, says that in Boxelder County, where he lives, the sentiment is certainly against polygamy, particularly among the younger generation; and that he never heard a single person in Utah express himself in favor of polygamy during the four years that he has lived there (2, 809).

Judge Miner says that the younger Mormons as a class are much opposed to polygamy; that this feeling is well nigh universal among them; and without reference to any law on the subject, he thinks that when the old people who are now living in polygamy die off polygamy will die out (2, 817).

Elias A. Smith, a Mormon, who is cashier of one of the principal banks in Salt Lake City, and who is 47 years of age, says that he has yet to talk with a Mormon who approves of the taking of plural wives since the manifesto; and that the sentiment among them is that when a man has plural wives taken before the manifesto and his legal wife dies he should marry the plural wife first in order (2, 844).

Mr. O'Meara says that since this proceeding has begun he has talked with many of the younger Mormons in Utah, especially with one who is his bookkeeper, and that they all say that they are opposed to polygamy; that they would be willing to have "a law passed making it an offense, to be punished by the United States Government itself," (2, 858).

Judge McCarty says that the younger element of the Mormon Church are opposed to polygamy; that the fact of the matter is, there was a sentiment against polygamy among the Mormons long before the manifesto throughout the entire State; that he himself knows of a number of instances where young ladies were receiving the attentions of married men before the manifesto, "and they became almost a hiss and a byword;" that this was as far back as 1886, and was among the Mormons themselves; and that this sentiment has been growing (888-890).

Doctor Condon, as to the sentiment on this subject among the Mormons in Ogden City, and in Weber County generally, says that the sentiment is against polygamy—but it is not much discussed because it is taken for granted that polygamy is dead (2, 936).

Colonel Young, who is a Mormon himself, says that the sentiment of the Mormon people regarding the entering into polygamy since the manifesto is decidedly hostile; and that there has been, so far as his knowledge extends—and he has had good opportunities for observation—"absolutely no teaching of the principle of polygamy since the manifesto" (2, 953). He adds:

"I believe I may state that the people—the great majority, practically all of the people—believe in the doing away of plural marriages,

and that is not confined to the young Mormons. It includes the middle-aged, and it includes those even who are polygamists. I have talked with polygamists—old-time polygamists—on this subject” (2, 956).

Doctor Talmage, the author of the “Articles of Faith”—the leading text-book of the Mormon Church—and a very able and well-informed man, testified that a great majority of the members of the church would manifest open opposition to any encouragement of the practice of polygamy; that as to the continuation of plural marriages there is a very strong and overwhelming sentiment in the Mormon Church in opposition to it (3, 78).

Mr. Glen Miller testifies that he knew there was a sentiment in the Mormon Church against polygamy before the manifesto, and that he does not believe it would be possible to restore polygamy in Utah; that the sentiment generally is against polygamy; that the young Mormons are opposed to it and could not be induced to go into it again; that intermarriages between Mormons and Gentiles have had a great deal to do with the building up of such a sentiment (3, 160, 161).

Mr. Hughes says that the Mormon people generally are against new polygamous marriages; that he meets a number of the younger Mormons and that they are against it and would not tolerate it; that the Mormon people now intermarry with the Gentiles, and, socially, in business, and in marriage are now as much against polygamy as the Gentiles (3, 164).

Mrs. Mary G. Coulter says that there was always a feeling of humiliation among the Mormons about polygamy; and that taking the younger Mormons particularly, she believes them to be strongly opposed to polygamy (3, 170).

Mrs. Jones says that she has traveled in Utah a great deal with her husband and has talked with a great many Mormons, especially the younger ones; that some of them are very much opposed to it; and that in fact some of them stated to her that they would like to be called on a jury to convict a man who might be arrested for going into polygamy since the manifesto (3, 177).

Mr. J. U. Eldridge, jr., who is 30 years of age, and is one of the few of the younger generation of Mormons examined as a witness in this case, is county clerk of Salt Lake County. He says that the sentiment among the Mormon people is decidedly against the practice of contracting polygamous marriages (3, 336).

Mr. Stephens says that among the Mormons themselves in Utah it is regarded as the grossest breach of good faith to enter into or solemnize a plural marriage since the manifesto; that among the Mormon people he heard nothing but condemnation of the rumored polygamous marriages since the manifesto of 1890 (3, 357).

Mr. Stephens, in answer to questions of Senator Foraker, further said that there would be no trouble in prosecuting one who would take a plural wife now in Utah; that he would be willing to submit a case of that kind to a jury of Mormons, because the contracting of new plural marriages is generally execrated by both Mormons and Gentiles (3, 365, 366).

Judge Powers, one of the principal witnesses for the protestants, in answer to questions by Senator McComas, said that he had talked with a great many of the younger men and women of the Mormon Church under 40 years of age, and found them strongly opposed to polygamy :

that his conscientious opinion is that if the church were to attempt to reestablish polygamy, by revelation or otherwise, it would have trouble from those younger men and women; that he believes this sentiment is now strong enough to resist and overcome such an attempt; and that in his opinion it is a growing sentiment (1. 882).

Senator BEVERIDGE. Am I to understand that it is a doctrine of the church that a revelation received by its higher officers is not considered as valid until it is upheld by the people of the church?

Mr. WORTHINGTON. Absolutely.

Senator BEVERIDGE. That the test of the validity of a revelation depends upon the vote of the church. Is that it?

Mr. WORTHINGTON. That question was gone over very thoroughly in the cross-examination—

Senator BEVERIDGE. I was not here, I guess.

Mr. WORTHINGTON. In the cross-examination of President Smith by many of the Senators, and the result of it all is this: That the president of the church or any other member of the church may receive a revelation from the Almighty, which he may consider binding on his conscience. When the president of the church receives such a revelation he must submit it to the assembled conference, and unless the conference sustains it by the uplifted hand, it has no more obligation upon any member of the church than it has upon any non-Mormon.

Senator BEVERIDGE. It is binding only when the church formally receives it?

Mr. WORTHINGTON. When the church formally receives it and sustains it.

I was about to refer to some figures which are in this record. They were first put in evidence during the examination of President Smith by the committee (p. 324, vol. 1), and were afterwards put in again by the protestants (p. 482, vol. 2), so that it may be assumed that they are reasonably accurate. I read from page 324 where the statistics were first given.

“Q. To what extent are these relations of polygamous families sustained?—A. It was ascertained by careful census in 1890, when President Woodruff issued his manifesto against further polygamous marriages, there were 2,451 such families belonging to the Church of Jesus Christ of Latter-Day Saints in the United States. In October, 1899, by another count, it was found that the number had been reduced, by death, 750; by removals beyond the confines of the Republic, 63; by divorce, 95; leaving then but 1,543. In May, 1902, a complete and thorough inquiry showed that the original number in 1890 had been reduced 63 per cent, leaving then only 897, and the great majority of whom were of advanced age, and many of them have since departed this life.”

He was giving his testimony in 1904.

“It is evident that with no additions to this total, but a rapid and continual decrease, the number of polygamous families will soon be reduced to zero.”

He was reading from a statement which he had published in the Deseret News some time before. Then he was asked to tell us how many of the 897 who were surviving in 1902 were in Utah, and he said he was unable to give that information.

So, taking the statistics we have here, it is perfectly reasonable to say that in the whole United States there are not now more than 500

heads of polygamous families. How many there are in Utah we can not say, but there can not be more than 250 or 300, from what we see as to the Mormon population elsewhere. Most of these are old men, and their wives are old women.

Here is the evidence showing, demonstrating—and it is accepted by both sides—that the number of new plural marriages is insignificant, for you will see that if plural marriages were going on in any great numbers the number of polygamists would not decrease. How could the number fall from over two thousand in 1890 to five hundred or so at this time if the practice had not been substantially given up?

Senator HOPKINS. Have you the percentage which it bears to the Mormon population?

Mr. WORTHINGTON. I can not give it at this time.

Senator FORAKER. What does the testimony show as to the number of plural marriages since the manifesto?

Mr. WORTHINGTON. That is just what I am coming to. I have read the statement that was made that it was not anticipated on the part of the protestants that they could connect the church or church officials with plural marriages. I have read that when one of their witnesses objected to giving evidence of one plural marriage, he was permitted to go away without answering the question.

I have read that at that same time Mr. Tayler said, "We do not understand that Judge Hiles has any information on this subject, but we have a great body of proof here, and we are going to submit it to the committee." What is that great body of proof? How many plural marriages have they proved by any evidence which would be received or considered in any court of this country? One; just one. That is the case of a woman now named Kennedy. What is that evidence?

There was a man named Johnson, who already had a wife, and he became enamored of this Kennedy girl, and had been trying for a couple of years to get her to be his wife. They were down in Mexico, in a Mormon settlement there, in which the high officer of the church was Apostle Teasdale. The mother of the girl went to Apostle Teasdale and said, "I want to have my girl married to Johnson. He has a wife already." Teasdale said, "You can not do it. The law of the church forbids it." She went back to him time after time and urged him to have that marriage performed, and Teasdale said it could not be done, that he would not do it, and he would not have it done—that the law of the church forbade it; that nobody could do it. (1, 422.)

What did they do? Johnson took that girl in a wagon, with his legal wife and her baby, and took a two days' drive for 75 miles over the hills and mountains of Mexico, until he came to another Mormon settlement. Then they went to the house of a relative of Johnson, and from that place Johnson and the girl and a man named McDonald—I believe they went to the house of a man named McDonald—and there some person performed a marriage ceremony between them. This was in 1896. (1, 388-418.)

It is claimed that that marriage ceremony was performed by a man who was then an apostle, Brigham Young, jr., but who has long since died. The testimony shows that when they went before that man, whoever he was, so far as the woman knows (and she is the only witness to the occurrence who was examined), she did not tell him that Johnson already had a wife, and so far as she knows nobody told him.

She was shown, in the Chronology of the Mormon Church, a photograph which we have proved to be a good photograph of Apostle Young, and she said that she could not identify it as the picture of the man who married her.

Now that is the one case in which they have proved a plural marriage. They have not proved it was done by anybody who was an officer of the church who ever had authority to perform marriage ceremonies, and it has been shown by clear inference that after these people had learned that they could not be married by any official of the church who knew it was a plural marriage, they drove off through the wilds of Mexico to get a man to marry them who did not know he was performing a plural-marriage ceremony. Johnson was evidently determined to get possession of the woman in some way, and that she was not over particular may be inferred from the fact that she soon left him and married another man to whom she presented a child less than six months afterwards. (1. 401.)

There were two or three other cases. I say there are none proved by testimony that would be received by a court. What do I mean? They call Mr. Owen, and in a few other cases somebody else, to say that it is generally reputed in a certain community that a certain man had taken a plural wife after the manifesto. I see sitting here as a member of the committee a Senator who some years ago administered, as I have sad cause to remember, stern justice in a criminal court of this District, and I should like to ask him or any other lawyer on this committee what he would have thought if the prosecuting attorney had had a man indicted for bigamy, and then had submitted the case to the court and jury upon evidence that around the city of Washington it was said that man had taken a plural wife; or if, when evidence of the second marriage of that man had been duly offered, what he would have thought of me if I had been the defendant's counsel and had responded or had undertaken to defend by proving that it was the general talk in this community that the man had only one wife, and that his legal wife?

If there had been any further proceedings in that case it would have been the suggestion of a writ *de lunatico inquirendo* with respect to counsel. That is the only proof submitted to this tribunal as to almost every case of alleged plural marriage since the manifesto.

As to some of these alleged reputations, Mr. Owen testified, and I think Mr. Heywood, the marshal, testified, that it was currently reported in the city of Ogden that David Eccles had taken a plural wife recently. The poor woman referred to was brought here by the subpoena of this tribunal, and she was put upon the stand and made to confess her shame, in that she said she had a child a few years ago when she had no husband. She was asked whether David Eccles was the father of the child, and she said no. She refused to say who is its father.

Then David Eccles was brought here by the subpoena of the committee, issued at our instance. Why he was not brought here by the subpoena of the committee on the suggestion of those who are conducting what I may call the prosecution in this case, I do not know. But David Eccles came here and testified that as a matter of fact he never had married any wife since the manifesto; that he had not married this woman, and was not the father of her child.

As affecting the relations between them, he testified that the woman's

husband, who was in his employ, had died, leaving her dependent upon him, and he (Eccles) had taken care of her since, being a wealthy man. And the fact that Mr. Eccles has been helping to support this woman created in the minds of those who seek such things the impression that he had married her. (3, 449.)

Then there was a woman named Thurber brought here, and while it does not appear, it is perfectly clear from reading her testimony that she was brought here because it was reputed, or it came to the ears of somebody, or that it was circulated around, that she had married since the manifesto. But she said she was married long before the manifesto. (2, 392.)

Here is another significant fact. It occurred in Salt Lake City, where there are more polygamists, in proportion to the population, than anywhere else in the country, in the year 1903.

Ordinarily they have dispensed with grand juries in Utah, as any State may do. There is provision, however, that when there is an emergency, a judge may call a special grand jury to examine into the circumstances. The judge who was then presiding, and who was here as a witness in this case, summoned a grand jury, which was about equally divided between Mormons and non-Mormons. The foreman was one of the leading non-Mormons of that city and of that State, and a man of the highest character. The grand jury unanimously reported to the court that after a searching investigation, and bringing before them everybody who had circulated such rumors, they could not find evidence that there was a single couple living in polygamous cohabitation within their jurisdiction who were not known to have been so living and to have been married before the manifesto. (2, 865-870.)

Mr. VAN COTT. Just polygamy; not polygamous cohabitation.

Mr. WORTHINGTON. I am corrected in a measure, but not in substance. If the grand jury had found that there were people living together as man and wife who had not been living together as man and wife before the manifesto, then they would have had evidence before them of a plural marriage since the manifesto, and the offenders would have been brought to the bar of the court.

There was one particular case there, that of Judge Tanner. It is not the Tanner referred to here who is connected with educational institutions, but Judge Tanner of the municipal court of Salt Lake. It was circulated all through the community that he had taken a plural wife, and that grand jury especially and particularly examined into that matter and found no evidence on which to return an indictment.

So we find here that in the very hot bed of polygamy, in the place where there was more of it than any other place in the country, in proportion to population, where they might be supposed to be under the protecting care of the high officers of the church, who surely would protect them if anybody could, after the most searching examination, made by an impartial tribunal, under the direction of a judge who was specially interested in seeing that they did their duty, and with whom they conferred as they went along, there could not be found a particle of evidence to indict a single man.

If this tribunal will accept the evidence of Mr. Owen, in some cases supported by the testimony of one or two other witnesses, that it is generally understood, whatever that means, that a certain man has taken a plural wife since the manifesto, then there are some

instances of plural marriages since that time besides the one in which Mrs. Kennedy figured. But, even if you assume that in every case in which there has been any such evidence offered, it is evidence which establishes the fact, I say counsel have utterly failed to establish what they set out to prove—that these plural marriages have been so numerous since the manifesto as to show that the pretense that the practice has been abandoned is colorable and not real. At the very most, as Mr. Tayler said on behalf of the committee of the House of Representatives in the Roberts case, you have a few sporadic cases, but only what everyone would expect, and not such a number as would lead Congress to even inquire whether the State has violated the condition upon which it was admitted into the Union, much less to expel one of its Senators.

There are two cases as to which perhaps I ought to say a word, because they do not rest entirely upon this alleged general reputation in some particular community. One of them is the case of Apostle Cannon, as to whom several witnesses have testified. The substance of it all is the hearsay testimony of his wife, that he told her he was going to marry Lillian Hamlin; that he did live with her apparently in the relation of husband and wife for a short time, when (from remorse, it seems—see vol. 2, p. 143) he died; and that subsequently a child was born as the fruit of that union, and that after the death of the father of the child, the child was recognized by the other members of the Cannon family as a legitimate child and participated in the inheritance of his property.

I should say without the slightest hesitation that in all that, except the fact that he lived with her for a short time and called her his wife, there is no testimony which would be received in a court of justice as tending to establish the fact of marriage; and the rights of Senator Smoot and of no other third party could be affected by the suggestion that the members of the family, under some arrangement between themselves, of which we know nothing and for reasons and in a manner with respect to which we are not advised, have agreed that whether they were married or not, the family would let the child share in its father's estate. And this was in 1896, four years before Reed Smoot became an apostle. I do not know how it could be suggested that what happened at that time could have any effect upon this case.

The other case is the case of Apostle Taylor. It does appear here, by the testimony of Mr. Abbott, who lived at Farmington, where Taylor had lived with two plural wives, whom he married before the manifesto, that within the last two or three years it has become "public talk" there that Taylor has recently taken two more wives, and that he has been away from that place and presumably in Canada for the last year or two. (1, 1052.)

What did Reed Smoot do about this? He says he was not present at the last April conference of the church, because this committee was then in session and he had to be here; but when he went back to Salt Lake in September and met the officers of the church he said to the president, "How did it happen that Taylor was sustained last spring, notwithstanding the testimony relating to him before the committee?"

And the president of the church reminded him that Mr. Taylor was entitled to a hearing before he could be dropped from his quorum. The question then came up as to whether he should be retained in the

quorum of apostles during the ensuing six months. Mr. Smoot demanded that an investigation should be entered into to determine whether the charge against the apostle was true, and he was promised that that investigation would be made. Then and not until then did he consent to hold up his hand along with all the others of the church in confirmation of Apostle Taylor.

Apostle Taylor has not been brought here. We have no information and can impart none to the committee as to how that investigation has been conducted or what is the result of it. But I do most respectfully submit that Mr. Smoot can not be called to account for the alleged sins of Mr. Taylor, based on "public talk," or for the failure of those who have the power, if any such power exists, to bring him back to a place where a subpoena of the committee might reach him to do so.

I do not know whether I may or may not be permitted, as one of the counsel of Senator Smoot, to say it, but unless I am stopped by the committee, I will say that I know from being actually present when it occurred in Salt Lake City a few weeks ago, that Senator Smoot urged the presidency to have Mr. Taylor brought where the subpoena of this committee could be served on him. In view of the remarkably candid way in which President Smith testified before this committee and the evidence as to his honest and straightforward character it is fair to suppose that there are reasons which appear good and sufficient to him why no such action has been taken. The evidence before the committee shows that the president last spring urged Taylor to come here and testify and that Taylor declined to do so (1, 1057, 1058).

And in this connection it should be borne in mind that whenever either the president of the Mormon Church or Senator Smoot, pending this investigation, says or does anything indicating a disposition to have the manifesto of 1890 carried out the intimation at once follows that they are influenced by a desire to pacify this committee and are not acting in good faith. But whatever may be the reason that Mr. Taylor is not here, Senator Smoot is in no degree responsible for his absence.

POLYGAMY NOT TAUGHT.

Now, on the question of teaching—and I see my time is flying, and I wish to address myself to another very important question in this case for a little while—publications have been put in here, all of them, except one, so far as I remember, antedating the time when Reed Smoot became an apostle, in which certain members of the church have undertaken to present the argument in favor of polygamy as a thing in itself recognized by the Scriptures and as right.

I should say they are in precisely the same position in that regard that our Southern brethren were after the war, in reference to the question of slavery and the right of secession. They had upheld first by their arguments and afterwards by arms the proposition that slavery was right. The vice-president of their confederacy announced at the beginning of the war that they were going to erect a government, the cornerstone of which would be human slavery. They contended, as the people from that region of our country had contended for many years, that under the terms of the Constitution of the United States and the compact by which it was framed, any State had the right to withdraw from the Union. When what Mr. Taylor would call the policeman's club was held up and by force of arms they were

prevented from carrying their intentions into effect, they accepted the situation as the Mormons have accepted the situation since the manifesto.

But does anybody suppose that the opinion of a single man in all the South was changed from what it had been before the war, as to whether, as a matter of fact, the States had not the right to secede and as to whether or not as a matter of fact slavery was right? Could not any man who believed slavery was a Divine institution and right, present an argument to the public in favor of it? Can not any man who thinks that the right of secession really existed write a book supporting his contention, giving the history of the transactions which led up to the framing of the Constitution? When he oversteps that line and urges the State to secede, he becomes an inciter to treason. When he undertakes to carry out measures which will have the effect of putting the negroes back into slavery, he commits an offense.

All that Mormon officials have done by any of the recent publications which I have seen has been, when the question was raised as to whether, as a matter of fact, they were right when they said polygamy was a Divine institution to maintain their side of the argument. In one of those publications which was introduced the other day, containing an article by Brigham H. Roberts, which was published in the Improvement Era in 1898, it is shown that the Era was challenged to debate on that subject. Thereupon Mr. Roberts published the argument, and the challenge and the reply to the challenge are published together. I respectfully submit that that is the right of any man in this country, as to the question of slavery or polygamy, or as to the right of secession as an abstract question.

Senator BEVERIDGE. My question went to the point whether there was a propaganda for the teaching of the breaking of the law. Then, to use your own analogy, very imperfectly, suppose there was an organized body, having a legal existence, which actually taught as a doctrine, not a religious doctrine, but a civil principle, and propagated the right and duty of secession. That is the question.

Mr. WORTHINGTON. I should say doubtless, if it was advocating the duty of secession, it would be an incitement to a man—

Senator BEVERIDGE. Very well. My question is divisible into two branches. First, were they as a hierarchy practicing the breaking of law, and, second, were they teaching it. My question did not go to the freedom of opinion. I doubt very much whether anybody has a right to ask what somebody else believes. What we believe is our own affair.

Mr. WORTHINGTON. So far as I can recall, in addition to what I have shown here, so far from their teaching it, the heads of the church have three times publicly proclaimed and submitted to the conference the opposite view, and there is not a word of testimony in this case tending to show that the heads of the church have in any way incited or encouraged people to enter into plural marriage since 1890, nor have they, except by the fact that some of them have practiced it themselves, in anywise encouraged others in the practice of polygamous cohabitation; and each of those who has practiced it has said as to that, "I take my risk with the law and I take my risk with my God."

Senator BEVERIDGE. You do not understand that there is a propaganda teaching that as a doctrine of the church?

Mr. WORTHINGTON. Absolutely none. On the contrary, beyond peradventure, as a matter of fact, there has been no plural marriage in the church since the manifesto, and there can not be any.

There can not be any plural marriage even in the church because the manifesto, which was the act of the Mormon people, took away the power of the president of the church to perform or to authorize anyone else to perform such a ceremony. A Mormon woman who becomes a plural wife now is an adulteress by the law of the church as she is an adulteress by the law of the land.

Senator OVERMAN. Do you claim that their missionaries and ministers do not teach polygamy?

Mr. WORTHINGTON. I do.

Senator BEVERIDGE. That is my point.

Senator OVERMAN. Then, why do they not put the manifesto in some of their standard works, and publish it to the country and to the world?

Mr. WORTHINGTON. That has been fully explained in the testimony of several of the witnesses, and it seems to me it is perfectly obvious. They use the Christian Bible. They send it out. So do all Christian people. In that there is set forth the example of Abraham, who took Hagar to wife, notwithstanding he had Sarah already as his legal wife. There is the example of Solomon, who had his wives and concubines by the hundreds, and there are many other illustrations which are known, showing that polygamy was practiced in those days by those people.

But nobody sends out with the Bible a statement that that is not lawful in these days.

So as to the books which the Mormon missionaries use. They use the Book of Mormon. They are provided with it. It declares that polygamy shall not be allowed. They have with them also the Doctrine and Covenants, in which there is the revelation as to polygamy, and in which book also there is a revelation saying it is the duty of every member of the church to obey the law of the land where he may be. They have both in the same book.

Senator BEVERIDGE. In other words, you claim that they take with them their sacred books just the same as our missionaries take with them our sacred books?

Mr. WORTHINGTON. Certainly. The testimony of Joseph F. Smith is clear on this point. (1, 179, 180.)

Senator OVERMAN. But the church does not regard the manifesto as of sufficient importance to print it in the Doctrine and Covenants?

Mr. WORTHINGTON. I say it ought to be printed; and President Smith, when he was here, said that as a matter of fact his attention had never been called to that question before, and that if any more editions of the Doctrine and Covenants were published, he would see that it was put in the volume. But it appears here that the manifesto is published in a separate pamphlet, and every missionary has it, as well as the other books. (1, 180.)

Joseph F. Smith testifies that in every instance the elders of the church who are sent out to preach the gospel are instructed not to advocate plural marriage in their ministrations. (1, 145.) Mr. Lyman, who, as president of the quorum of the apostles, is at the head of the missionary department of the church, says that their missionaries are always

advised to instruct the people that the church is not practicing or teaching polygamy at all. (1, 447.)

It has been testified over and over again that their missionaries are carefully instructed not to mention the doctrine of polygamy, and so far as the testimony goes they never refer to it at all, except, if somebody comes along and says that Joseph Smith was an imposter and that the revelation of polygamy never came to him, they will assert that the doctrine called in question was a true revelation, and controvert the argument of the reorganized church that it was something imposed upon them by Brigham Young, or some of the successors of the prophet, and dated back.

The CHAIRMAN. As you have been interrupted, pardon me if I ask a question for my own information. You stated in your opening:

"We do not for a moment contend that if evidence to that effect could be brought here, and if it could be shown that Senator Smoot has a plural wife or has had at any time since he was elected a Senator, or since he was admitted to this body, he ought not to be expelled."

Is it your contention that a different rule obtains in the case of polygamous cohabitation?

Mr. WORTHINGTON. I do not understand your question. I understand the two propositions to be the same. I will certainly admit that if Senator Smoot were now living in polygamous cohabitation he ought not to be allowed to keep his seat.

The CHAIRMAN. Then, the same rule that you stated in the one case would apply?

Mr. WORTHINGTON. That is what I understood by the question.

The CHAIRMAN. Then, to follow it a moment further, in the light of the testimony in the case, you would think if Joseph Smith was elected a Senator he ought not to take his seat?

Mr. WORTHINGTON. I would vote against him if I had the opportunity.

The CHAIRMAN. That is all.

Mr. WORTHINGTON. These are questions that are addressed to me personally.

The CHAIRMAN. I wanted your opinion.

Mr. WORTHINGTON. My personal opinion. Of course I do not know what Senator Smoot would say upon the subject.

CHURCH AND STATE.

Now, I pass from these questions to what seems to me to be the gravest question in this case, and that is the matter which relates more particularly to that branch of the case which my associate discussed at such length—the question of the relations of church and state. He dealt with the question whether as a matter of fact the church does interfere in political affairs. I propose to deal with the question. Assuming that it does, what are the consequences?

A graver question to my mind could not be presented to this honorable body.

It is greatly to be regretted that on such an occasion as this no man is able to lay his hand on the assertion of any principle which can be applied to exclude Senator Smoot in case it should be found by the evidence that there is a mingling of affairs of church and of state in

Utah. But if I were to undertake to frame what I understand to be the contention which is maintained in that regard it is this:

That if it shall appear that a man who has been duly elected by the legislature of one of the States as a Senator has all the qualifications required by the Constitution; that he has been a citizen of the United States and a resident of the State from which he is chosen all his life, and is over thirty years of age; that in addition to that he is a good man; that nothing can be said against his moral character; that he is not charged with bribery or corruption; and that he is not charged even with the commission of any offense against the law itself; and if it shall further appear that in the vote which was taken in the legislature that elected him some of the members of the legislature, and enough of them to turn the balance and elect him, voted for him, not because they thought he was the best man, or the proper man, but after consultation with somebody else, upon whose judgment and authority they relied, then that man can not keep his seat in the Senate.

I should like to remind the committee that that was a question which struck the acute legal mind of Senator Hoar. In the course of a discussion which arose in this case he said to Mr. Tayler: "Mr. Tayler, what do you say as to any distinction which can be made between the case of members of a legislature voting because their church authorities requested them to do it, and the case of legislators who vote for measures to which they are opposed because their party demands it?" Mr. Tayler did not reply at the time, and Senator Hoar said: "I give notice that before this case is closed I want to hear from you on that question (1, 464)." Mr. Tayler said he had a reply which was satisfactory to him at least, but we have not yet heard what it is.

I contend that it is not in the power of the Senate -- of course I mean in the judicial power: I am not speaking of arbitrary power -- when a man has been duly elected and he is not charged with obtaining his election by corruption or bribery, and when he has the constitutional requirements of age, residence, and citizenship, and -- I would not go so far, but for the purpose of this case let us suppose that in addition there is no charge against his moral character -- I contend that in such a case the Senate may not go back and inquire into the minds of the legislators as to what induced them to vote for him.

What would be the result of it? It would be charged that there was an influence of this kind by some church or by some priest or by some person who ought not to have controlled the legislators, and you would be put to inquiring into the minds and the reasoning of each individual legislator to find out what was it that brought him to that conclusion. He may tell you, "I went into a party caucus. Mr. Jones was my candidate, and he was a good man, and, in my opinion, the best man in the State. Another man was a candidate, who I did not think was a fit man to be in the Senate of the United States, but the majority of the caucus sustained him, and I bound myself in honor to support the man who received a majority vote in the caucus, and I voted for him. I do not myself think he is a fit man to go to the Senate, and if I had exercised my independent judgment, and if others who were in the same position that I was had exercised their independent judgment, he never would have come here."

I should like to know what is the difference between a man voting for one whom he thinks an unfit man to be in the Senate, because he has agreed to be bound by the vote of a majority of a caucus and a

man saying "I have some friends of the same religion I am and in whose judgment I have great confidence, and I am doubtful about this matter, and I am going down to ask them what they think about it, and vote for the man they select."

Let me say, however, in passing, that in this particular case it happens that there were two witnesses examined who would know something about the fact if that legislature had been induced by the church authorities to elect Senator Smoot.

One of them is Joseph F. Smith, who was the head of the church, and who naturally would be supposed to know something about it if anything of that kind had been done. He was brought here by the protestants and he testified, in the most emphatic terms, that he did not interfere and the church did not interfere. A cloud of other witnesses testified who would only know it by the general understanding, and they testified that Mr. Smoot was the natural and logical candidate.

The other witness was a member of the legislature. If such an inquiry were made you would have to bring here every member of the legislature who voted for Mr. Smoot and find out what induced him to vote for him. The only one who was brought here was the one we brought—the only woman who was a member of the legislature—a non-Mormon, Mrs. Coulter, a woman who objects to polygamy as strongly as any woman in this room, or in this land. She testified that she voted for Senator Smoot because she believed he was a good man; because she inquired and found out he was not a polygamist, and because she believed that the younger members of the church, who were standing out and always had stood out against polygamy, should be recognized in that State.

But it is said that, without regard to the particular relation that existed between the votes that elected Senator Smoot and the church, it appears here as a general proposition that in the State of Utah there is such a union of religion and politics that any man who is elected by reason of the influence resulting from that union should not be allowed to keep his seat in the Senate. In other words, it is said that there shall be no union in political campaigns of religious matters and political matters. Now, I do most respectfully but most emphatically deny that any proposition of that kind ought to be listened to for one moment. I contend that if any religious organization in this country wishes to organize itself into a political party, or if any political party wishes to organize itself into a religious party, it has the right to do it.

If the word should go out from this committee to the preachers throughout the country that it is seriously contended here that a man should be excluded from the Senate who recognizes the existence of a God with whom he can commune and from whom he can receive advice and help, it might well be that some Peter the Hermit would urge the hosts of Christianity to organize a party in this land to put into the Constitution of the United States what is not there, a recognition of the fact that there is a God, and a provision that a man might commune with Him in prayer and might receive from Him guidance in his vote or anything else and still should not be excluded from holding public office. Suppose such a wave of revolution should spread over this country, and there should come here at some time a number of Senators elected on that religious-political issue, and it should appear that they were elected by a combination of all

the Christian churches in the country working through their church organizations. I wonder if they would be told by the Senate, "Go back and tell your people they have done a very foolish and ridiculous thing. Go back, and be elected upon some such really material issue as the tariff, or the trusts, or silver, or railroad rates, or something of that kind, and we will let you in. But we can not allow people to come here who have been elected through the action of church organizations, because they believe in a God who hears and answers prayers."

I submit, Mr. Chairman, that any portion of the people of this country may at any time rightfully unite themselves into a party which shall combine both religious and political principles. I submit that the Mormon Church in Utah, the Catholic Church in New York, the Episcopal Church in Maryland, or any other church in any other State, may organize itself into a political party and through its preachers in the pulpit, through its church officials anywhere, may solicit votes, and they may have a religious caucus if they please and say we will vote for the officers who will be nominated by the head of this church organization, just as they might for officers nominated by a caucus of politicians; and I submit that such men would be no more ineligible to seats in the Senate than men elected by legislators who would say, "Instead of going to a religious organization, we will go to a political organization and be bound by what it may say."

It is common knowledge that it frequently occurs that a legislature elects a Senator who had been selected for that office by the leader of the dominant party in the State where the election is held before the legislature had even met. Are we to have inquiries by this committee in the future as to whether a Senator-elect represents his State or the political "boss" of that State?

Senator KNOX. Do you understand that there is anything in the Constitution of the United States which prohibits a State from establishing a religion?

Mr. WORTHINGTON. That is just what I was coming to.

Senator BEVERIDGE. What other churches are there, if you know, that claim to receive, either as a church or through their officers or members, revelations from God?

Mr. WORTHINGTON. I understand that the Catholic Church, for instance—

Mr. VAN COTT. And the Reorganized Church.

Mr. WORTHINGTON. The Reorganized Church of Jesus Christ of Latter-Day Saints is another. The Catholic Church does claim that in all things relating to faith or to morals the Pope is the infallible head of the church, and speaks by authority of God, and every member of the church must accept what he says as true. Thus, in a work entitled "The Faith of Our Fathers," published in 1904, the author of which is James Cardinal Gibbons, Archbishop of Baltimore, under the head of "Infallible Authority of the Church," pages 86-93, are the following paragraphs:

"INFALLIBLE AUTHORITY OF THE CHURCH.

"The church has authority from God to teach regarding faith and morals; and in her teaching she is preserved from error by the special guidance of the Holy Ghost.

* * * * *

"If your church is not infallible, it is liable to err, for there is no medium between infallibility and liability to error. If your church and her ministers are fallible in their doctrinal teachings, as they admit, they may be preaching falsehood to you, instead of truth. If so, you are in doubt whether you are listening to truth or falsehood. If you are in doubt, you can have no faith, for faith excludes doubt, and in that state you displease God, for 'without faith it is impossible to please God.' Faith and infallibility must go hand in hand. The one can not exist without the other. There can be no faith in the hearer unless there is unerring authority in the speaker--an authority founded upon such certain knowledge as precludes the possibility of falling into error on his part, and including such unquestioned veracity as to prevent his deceiving him who accepts his word.

"You admit infallible certainty in the physical sciences; why should you deny it in the science of salvation? The mariner, guided by his compass knows, amid the raging storm and the darkness of the night, that he is steering his course directly to the city of his destination; and is not an infallible guide as necessary to conduct you to the city of God in heaven? Is it not, moreover, a blessing and a consolation that amid the ever-changing views of men, amid the conflict of human opinion, and the tumultuous waves of human passion, there is one voice heard above the din and uproar, crying in clear, unerring tones: 'Thus saith the Lord?'"

Senator BEVERIDGE. What churches claim that their members are or may be in communication with the Almighty?

Mr. WORTHINGTON. I understand that all churches do that, so far as my knowledge goes in that regard. There is no church in the land the ministers of which do not teach their children in their Sunday schools to go to their Maker when they are in doubt or trouble and ask for guidance.

Senator FORAKER. It is the belief of the Methodist Church that their ministers are called by God.

Senator BEVERIDGE. Yes.

Senator FORAKER. That they are moved by the spirit; that they receive a message.

Senator HOPKINS. And that is a very good church in my country.

Senator BEVERIDGE. Yes; there are six members of this committee who are members of it, including myself.

Mr. WORTHINGTON. Let me make this further suggestion in this connection. When I was a lad, we had a party in this country that called itself the American party, and because it was a secret organization, it was called by others the Know-Nothing party. It had secret rites and ceremonials which it refused to disclose to anybody. I do not know whether a member of the Know-Nothing party was ever elected to the Senate, but I take it for granted if he had been he would have been admitted.

The whole principle upon which that party was founded was hostility to the Roman Catholic Church, and precisely the same charges were made against that Church at that time that are now made against the Mormon Church, in respect both of the authority of the head of the church and of the disposition of the church to control the political affairs of the country.

I wonder whether if the Catholic Church, through its officials, had organized itself to resist that kind of a party, and had sent one of its

high officers to the Senate to resist any attempt that might be made to legislate against it, he would have been turned out of the Senate or refused admission thereto because he had been elected through the efforts of a religious organization or because he believed in the infallibility of the Pope. I think not.

The Constitution of the United States provides by almost its concluding clause that no religious test shall ever be required as a qualification to any office or public trust under the United States. The first amendment to the Constitution provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." This prohibition applies to the United States only—not to the States, as Mr. Van Cott has shown in his argument.

In the early history of this country some of the States did have an established church.

MR. VAN COTT. Connecticut and Vermont.

MR. WORTHINGTON. And I believe it is perfectly competent now for any State in this Union by an amendment to its constitution, if the people please, to have an established church and to have an absolute and perfect union between the church and state, if they desire to have it. (As to this see *Permoli's case*, 3 How., 589, and *ex parte Garland*, 4 Wall., 333, 398.)

SENATOR BEVERIDGE. That is not the question of the Senator from Pennsylvania; I think perhaps you have forgotten it. I should like to have it read.

SENATOR KNOX. That was my question—whether the Constitution of the United States prohibits the establishment of a religion in the State? That is not just the form in which I put it.

SENATOR FORAKER. "By the State."

SENATOR KNOX. By the State.

SENATOR FORAKER. He has answered it.

THE MORMONS ARE PATRIOTIC.

MR. WORTHINGTON. Now, Senators, in conclusion, let me say a word on behalf of the Mormon people. They have been held up to odium and have been execrated because it is said they defy the law. It is very true, on this one matter of polygamy, they did for a long time insist that marriage is one of those matters which is in the nature of a religious institution, and a sacrament, peculiarly so under their doctrine, and could not be interfered with by the State. But in all other regards they have conformed to the law. They have shown their patriotism in so many instances and in such a manner that nobody can doubt that they are true American citizens.

As early as 1846, when the war with Mexico was flagrant, when the Mormons during their migration from Nauvoo to Salt Lake City were resting on the banks of the Mississippi River, the Government of the United States sent to their camp and called upon them for volunteers to help form a regiment of a thousand men to march across the desert to the State of California, there to aid in the operations in which our Army was then engaged. In that Mormon camp, though it was but two years after the murder of their prophet, they organized a battalion of five hundred men, who with five hundred from other sources made that historic march across the Great American Desert, suffering great privations and enduring to the end.

Another significant illustration of their inherent patriotism is the fact—not heretofore mentioned, I believe, in this hearing,—that they believe the Constitution of the United States is an inspired document. And when in July, 1847, the advance guard of the Mormon people reached Salt Lake City, which was then Mexican territory—because it was months before the treaty of Guadalupe Hidalgo, which transferred that territory to the United States—when they had planted themselves on Mexican territory, to which they might be supposed to have been glad to remove from the United States, the first thing they did was to ascend the peak, which stands behind their temple, and there unfurl the stars and stripes! Ever since that day that eminence has been known as Ensign Peak, and from the staff at its summit on the Fourth of July and on other gala days the flag still waves as an evidence that the Mormon people are not disloyal. And so far were they from seeking to escape from the jurisdiction of the United States that almost immediately after they reached Utah they applied for the admission of the Territory to the Union as the State of Deseret.

When the rebellion was flagrant and this country was threatened with destruction—and if they were enemies of this country it might have been supposed that they would give aid and comfort to those seeking to destroy it—they were here instead asking for admission to the Union.

When the Spanish war came on they furnished their regiments of volunteers. The artillery batteries which were commanded by Colonel Young, who was here as a witness in this case, did most remarkable service in the Philippine war. They have their men at West Point and Annapolis. One of them, as an officer in the Navy, rendered great service with Dewey in the battle of Manila Bay. Everywhere and at all times they have shown their devotion to the principles of the American Government and their desire to exercise and have the rights of American citizens.

It is said here that this proceeding has been begun for the protection of the home. I have seen that expression used in this protest, and I have heard it used here from time to time—that the great object of this proceeding is to protect that necessary unit of American civilization, the home, where one man lives with one wife, and they bring up a family of children around them. Yet it is sought, in the attainment of such a result as that, to cast down and to cast out a man who was born in a polygamous household; a man who looks with the greatest reverence upon his sainted mother, and knows she was one of those against whom are aimed all these shafts which intimate that people who entered into those relations entered into them from other than the most sacred principles.

It is sought to cast out a man who was reared in such a way, who was surrounded by all the temptations which he had to enter into polygamous relations, who has been faithful when many were faithless, and who has in far-off Utah that single wife whom he married so many years ago, with his six children around her. It is proposed to strike that man down and that home, that sacred home, with one wife, and that family of children, and to do it because it is said you want to protect the home.

I say, Mr. Chairman and gentlemen of the committee, if it is your desire to protect the home, a home of that kind, let it be known that when a man who, under such temptations and trials stands up for the

home, by his own example, and who never in his whole life has ever uttered one word in support of the practice of polygamy, comes to the Senate of the United States, you will not cast him out and say he shall suffer for the offenses of others. You will not punish young Utah for old Utah's sins.

The CHAIRMAN. Do you wish to proceed now, Mr. Tayler?

Mr. TAYLER. I do. How long will the committee remain in session? I will not be very long.

Senator FORAKER. How long, probably?

Mr. TAYLER. Half or three-quarters of an hour.

The CHAIRMAN. I would suggest to the committee that eulogies on Senator Hoar are to begin immediately after the routine morning business. They will begin about half past 12 o'clock, when Senator Lodge will make his address, and if it will be convenient for the members of the committee to remain here for half an hour or so, it will accommodate Mr. Tayler, who is obliged to leave this afternoon.

Senator McCOMAS. I suggest we stay, Mr. Chairman.

The CHAIRMAN. Some of the members of the committee can not return this afternoon, and if you wish to proceed now, Mr. Tayler, the committee will hear you, and as many of the committee as possible will remain.

CONCLUDING ARGUMENT OF ROBERT W. TAYLER.

Mr. TAYLER. Mr. Chairman and gentlemen, I want first to make a reference to the observations and animadversions of Mr. Worthington upon my statement respecting revelation.

I must have been sorely misunderstood if I was thought to confuse or to identify as the same thing that kind of inspiration or instruction or direction that Christian men and women are supposed to receive through prayer from God with the kind of revelation concerning which Reed Smoot testified, and which is the basis of the Mormon Church; and I looked at what I said yesterday in reply to Senator Knox's question—which was not said, as Mr. Worthington insisted, with carefully weighed words, as the committee well knew—but as I now look at them, I find I did state it accurately, though not as scientifically as if I had undertaken to write it down; and this is what I said:

"That is to say, any man who believes himself to be in personal relation to Almighty God, so that he is capable of receiving, through a conscious fellowship and intercourse, face to face with God, either by hearing his voice or by seeing his presence," the will, and wish, and command of God.

That is the kind of revelation to which I had reference, the kind of revelation which I apprehend, as actually delivered, we are under not the slightest danger of suffering in this country in this day and generation.

The accuracy of what I said is to be further defined by what I have said in my argument, taken from the work of a high authority in the Mormon Church who defined inspiration and revelation.

So I was referring to that sort of thing. Then, as a practical question, I went on to show that it never could be raised, it never would be raised, where it was a mere abstraction; where one merely possessed *that belief*, in the very nature of things it would not be raised; and I

so stated in reply to Senator Knox's question; but with Senator Smoot and the officials of the Mormon Church, with the practices which were approved in reference to them, the association of Senator Smoot with his brother apostles, their power, their authority, the ease with which they could make their people obedient to the law—that attitude and conduct were interpreted. They were clear. They were given a certain character in consequence of the capacity of the leaders of this church to receive revelation.

I want to advert right here to another thing, not in the nature of revelation, but illustrating the policeman's club.

Mr. Worthington quoted the manifesto, so called, or as we might call it, of 1900, wherein the head of the church said something to his people about polygamy and about polygamous cohabitation, the substance of which was "every fellow for himself and the devil take the hindmost. Look out if you want to polygamously cohabit. The law will get after you, but not the church," is the interpretation of it. That manifesto was issued in the heat of the Roberts contest. The investigation by the committee was in December, 1899. The argument in the House was in the latter part of January, 1900; and while the country was at a white heat respecting this confessed polygamist who was seeking to enter Congress the president of the church feels called upon to issue a manifesto on the subject. That, like all the others, resulted from the policeman's club.

I want to refer for a moment to this Thatcher incident. That has not been clearly brought out, after all. I think, before the committee, because so much of it was documentary that it was not thought worth while at that time to read it. I was asked the question by Senator Knox, which I answered as well as I could from memory, as to the character of this inquiry and why Moses Thatcher was deposed, and I replied that the reason was chiefly political. We find in the chronology of the church, whose accuracy is sometimes now questioned by the authorities, first, that "on Saturday, the 4th day of April, 1896, Moses Thatcher was not upheld as one of the twelve, because of his refusal to sign the manifesto issued by the general authorities of the church to the saints, in which the leading men of the church were requested to seek counsel before accepting political offices which would interfere with their ecclesiastical duties."

Now, this Andrew Jensen, who was a witness before the committee, a life-long Mormon and an assistant church historian, may have made some slight technical error in respect of want of fullness, but nobody can doubt from that statement what the fact was.

Then later on Thatcher was dropped from the apostleship; and later on he was defeated for the United States Senate; and later on he was tried by the high council of his stake for apostacy.

That was the final word. When they had time enough to think about it, when the heat of the political phase of it had passed away, when we may begin to think that the policeman's club had begun to counsel care in the way of Mormon thought and the visible expression of their view, then we find this, that he was charged with apostacy and un-Christianlike conduct by Brigham Young, Francis M. Lyman, and Heber J. Grant, three of the apostles. We may be sure if the trouble was merely and purely religious we would find it out at this stage.

He was tried before the proper authority, the high council of his stake, and those charges, as found in the findings, are as follows:—

will run over them briefly so that we may get the character of the charges upon which he was actually tried:

"First. In his interview published in the Salt Lake Tribune, which he has admitted to be in the main correct as to his views, though not as to his exact language. He there virtually charges the authorities of the church with bad faith in declaring, first, that they would not interfere in politics, and next, that they intended to and would so interfere, and that this 'practically annulled their former declaration.' He also announced his readiness to champion 'the cause imperiled' by the latest declaration of the church authorities."

The quality of that charge is apparent—it is political.

"Second. In giving to the public private correspondence between him and Lorenzo Snow, which related only to church and quorum matters."

But it refers to that particular controversy.

"Third. By using language as follows in his reply to President Lorenzo Snow, published in the Tribune and Herald of November 11, 1896:

"'Although the judges before whom I am to be arraigned have nearly all expressed an opinion as to the merits of my case; although my accusers are to sit in judgment over me; although a verdict has already been delivered against me and without a hearing.

"'In a conversation with President Lorenzo Snow on a train between Salt Lake and Brigham City last Saturday—November 7—I was given the impression that I have absolutely nothing to hope for in any other than a public hearing, such as I now request.

"Fourth. In writing to President Lorenzo Snow, November 11, 1896, saying:

"'I shall not trouble my brethren, therefore, to convene in a special meeting named for Thursday, at 2 o'clock p. m., in the historian's office.

"'And this after the meeting had been called at his special request.' All respecting the same subject.

"Fifth. By resorting to the quibble that he was 'not invited' to the meeting one week later, when he was notified that his case would be considered, and in stating, 'since judgment in these matters has been already passed.'

"Sixth. In charging President Lorenzo Snow with publishing 'matter in order to gratify the apparent curiosity of five young men' and describing his (Brother Snow's) explanations as 'a bitter and acrimonious communication.'

That is the Wooley letter, all on this subject of his Senatorial candidacy.

"Seventh. By endeavoring to make it appear that the authorities of the church in publishing the Declaration of Principles had contradicted what they had previously announced in the Deseret News, and an interview with the Salt Lake Times as to the political liberty of the members of the church."

The same old song, and there it is quoted.

"Eighth. While protesting against the mingling of religion and politics, he repeatedly thrust his differences with the church into political speeches.

And so on.

"Ninth. In his own published explanation of the remarks he made in the legislature about a higher allegiance, as follows:

"No legislator can keep his oath of office inviolate if he or she allows the officials of an ecclesiastical organization to control his actions within the province of the State."

He was tried for saying that.

"Tenth. In the same article he uses this language:

"Doubtless a great struggle is now inaugurated in Utah, a struggle for freedom, for liberty, for the integrity of free government, for the principles incorporated in American institutions. If the state is to be controlled by the dictation of the church, its sovereignty is lost and its independence is a myth, an iridescent dream."

He was tried for that.

"Eleventh. The same ideas were elaborated in his speech introducing Mr. Warren Foster, at Logan, February 17.

"Twelfth. No matter what were his intentions, the effect of his utterances and course on the public mind was that he was fighting the church on a vital question, namely, the political liberties of the members of the church.

"Thirteenth. The letter written by Elder B. H. Roberts to Brother Thatcher shows that Brother Roberts perceived the effect which had been produced upon the public mind by their united course" in respect to this subject.

That is all. That is what he was tried for by the high council of his church. Their decision was this. I read some of this in inquiring of witnesses. I want to quote a little of it:

"We therefore decide that the charges against Brother Moses Thatcher have been sustained, and that in order to retain his standing and fellowship in the Church of Jesus Christ of Latter-day Saints he publish a statement to the satisfaction and approval of the presidency of this stake of Zion fully covering the following points."

And it goes on to say that he must sign a statement declaring that he was in error in all these respects.

SENATOR FORAKER. That he was in error in imputing to the church a determination to control his judgment and his freedom of action? Is that it?

MR. TAYLER. No and yes, Senator. That was a part of it. I think I can answer better by finding what he did in two or three instances—by showing what he signed.

SENATOR FORAKER. You quoted his language as an evidence against the church permitting him to speak in that way by its authority or its spirit?

MR. TAYLER. Of course that finding was there. It was the general inquiry made; but that is not all.

"That he now sees there is no conflict between that declaration and their former utterances in reference to political affairs."

That is the political manifesto.

"That he was mistaken in conveying the idea that the church authorities desired and intended to unite church and state, or to exercise undue influence in political affairs."

Mind you, this is a man who for a long time had been fighting for this principle, who had opinions as well defined, as soundly based, as intelligently expressed on the platform before all his people as any

Senator who listens to me; a man in intelligence, in intellectual acumen, and in apparent moral virility, as capable as the average Senator of the United States, who, by this ecclesiastical body, is convinced of these things.

Senator BEVERIDGE. But in answer to Senator Foraker's question, what was he tried for?

Mr. TAYLER. I was merely interpolating what it was this man had agreed to do, the kind of a man he was.

"That wherein the public have been led to believe through his utterances that the leaders of the church were forging chains to bind the members of the church, an impression was created which he did not intend and does not wish to prevail."

I would like to see a Senator of the United States in any ecclesiastical organization that he knows anything about signing his name to any such admission as that, that he did not, in these serious and solemn pledges, persisted in time after time, intend the manifest meaning of his language.

"That wherein he has placed the authorities of the church in a false position, however unintentionally, he has done them an injustice, and is ready to make such amends as lie in his power."

That, of course, would be right and frank.

"That he acknowledges the first presidency and council of the apostles as God's servants, as prophets, seers, and revelators, and their authority as supreme in the church."

And they had previously said:

"It was also very gratifying to hear Brother Thatcher acknowledge the apostles as the mouthpieces of the Lord, clothed with authority as prophets, seers, and revelators."

Not, you will understand, the apostles coupled with the first presidency, but just the apostles.

"That he was in error in stating in his published letter to President Snow:

"During all these weary months, while friends and physicians believed I was on the verge of the grave, I was administered to only once by members of our quorum, although day after day engagements made for that purpose were for reasons unknown to me not kept."

"In this connection he may state that one such engagement was not kept, but this was not an intentional breach of promise."

That is the dealing of a court with the citizen, free to think and free to act, is it?

"That he knows of no higher allegiance or more solemn and binding obligations than those of a religious character between man and his God."

That is right.

"That in speaking of 'chains,' 'oppression,' 'curtailment of liberty,' 'malice,' 'anger,' 'spite,' and 'revenge,' he did not intend to reflect upon the authorities in any way, and is grieved that his language has been so construed."

Who was it that he was charging with welding the chains? Who was it that was undertaking, according to his view, to oppress? Who was it that was undertaking to bring about curtailment of liberty? Why, the charges that I have read show you that it was the church. But now he says:

"He did not intend to reflect upon the authorities of the church in any way, and is grieved that his language has been so construed.

"That he believes his brethren of the apostles have been actuated by a desire for his salvation, and not his destruction, and that though their rebukes have been sharp, they were intended to bring him to a sense of his true position."

Senator FORAKER. That is a letter that he wrote, is it, Mr. Tayler?

Mr. TAYLER. No, Senator; that is not his letter.

Senator FORAKER. I am asking what it is.

Mr. TAYLER. That is the procrustean bed that is set for him to occupy.

Senator BEVERIDGE. What is it? Is it the finding?

Mr. TAYLER. It is the decision of the court that tried him, telling him, that if he consents to all those things, then he may retain his standing and fellowship in the church.

Senator FORAKER. I do not want to interrupt you, but I have to go in a minute, and this is an important matter—

Mr. TAYLER. That is what he signed.

Senator FORAKER. If I understand it, he got into a controversy with his church. He made charges against his church in its relations to him, in the authority it sought to exercise in controlling him in his freedom of action?

Mr. TAYLER. Yes, sir; in politics.

Senator FORAKER. They brought him to trial for that, and at the conclusion of it he was required to sign an apology of that kind—is that what I am to understand?

Mr. TAYLER. Yes.

Senator FORAKER. To make an apology?

Mr. TAYLER. Yes.

Senator FORAKER. And he did not write a letter?

Mr. TAYLER. This, that I have been reading, was signed by Angus M. Cannon, Joseph E. Taylor, and Charles W. Penrose as the decision, and Brother Thatcher indorsed it:

"Without qualification or mental reservation, I accept this decision in full."

Senator FORAKER. In every other church, if a man violates the ordinances of the church, attacks the church government, is it not provided that he is liable in such case to trial, and if he be found guilty they will expel him unless he make humble apology?

Mr. TAYLER. Undoubtedly.

Senator FORAKER. What I want to get at is how do you differentiate this, then, from what would be a similar proceeding perhaps in some other church?

Mr. TAYLER. In the first place, we have the fundamental question that we have talked about that it was necessary that he should get the consent of the church before he could be a candidate for office. Whether that was right or wrong under all the circumstances of this case is for the Senators to determine. Then when he insisted upon it, when he said a man ought to have the liberty to be a candidate for office if he himself thought so, that the church had no right to put chains upon a citizen and prevent him from being a candidate for office, and went on with his canvass and was defeated by the church, then he was put to his trial, and the decision that was rendered against

him and which he was compelled to accept unqualifiedly, I say was a decision that no Senator here, who is a member of any church that would try him, would ever be asked to sign or that he ever would bring himself to sign or consent to.

Senator FORAKER. I do not know anything about Thatcher except as he has been disclosed to us in this proceeding, but I understood you to say a while ago he was a man of high character and very great ability.

Mr. TAYLER. Surely.

Senator FORAKER. With intellectual endowments equal to that of a Senator?

Mr. TAYLER. He is.

Senator FORAKER. And, therefore, a man of independent purpose and freedom of action?

Mr. TAYLER. Yes, sir.

Senator FORAKER. Now, do you mean to disparage his action in signing this letter?

Mr. TAYLER. No, but to exhibit the gigantic power of his hierarchy. That is all.

Senator FORAKER. Do you mean it was signed under duress?

Mr. TAYLER. Absolutely; in the sense that what the high-council demanded was law to him.

Senator FORAKER. That is what I want to get at.

Mr. TAYLER. Moses Thatcher was deposed as an apostle. Why, Mr. Senator, we must first of all comprehend the mind of the Mormon—the power of the Mormon Church over him. Do you think that the ordinary Methodist woman would have her mind and practically, for the time, her life destroyed because she was excommunicated from that church? I think she could find another way to salvation. Most people could; but there is no other road whereby the true Mormon can reach eternal bliss.

Senator BEVERIDGE. Then, according to that, no Mormon, polygamist or otherwise, holding office in the church or otherwise, could hold an office under the United States Government?

Mr. TAYLER. Senator, I was not discussing that point at that time. I am only showing what it means to a person when the church lays its hand upon him and excommunicates him. I am referring to the state of mind of Moses Thatcher, a Mormon in truth and in fact, in spirit and in thought—why it is that his religion makes such great demands upon him, and why, when the heads of the church say he must do a certain thing, he does it.

Senator FORAKER. Mr. Tayler, I want simply to understand what it is you have been reading. You read there just a while ago something that I understood was a statement of Mr. Thatcher to the effect that freely, without any mental reservation whatever, he went on to make these statements of exoneration. What was that?

Mr. TAYLER. That was his indorsement of the decision and findings of the high council which tried him.

Senator FORAKER. I understand. Are we to understand that it is insisted that that indorsement was put there under duress, not in good faith; that he was not sincere or truthful in it?

Mr. TAYLER. Absolutely sincere. He testified, Senator, that as the high council, in whose jurisdiction he was, had interpreted a certain

instrument, that was law to him. He says it was therefore binding upon him. That is his language.

Senator FORAKER. And his statement or his indorsement is just as much to be relied upon as a sincere and truthful statement as anything else?

Mr. TAYLER. Precisely. I am not questioning his sincerity; I am only showing you what it is.

Senator FORAKER. I only wanted to understand your argument.

Mr. TAYLER. The stronger his character the more emphasis I lay upon the claim that I make.

Mr. WORTHINGTON. Do you think he was under duress when he testified here?

Mr. TAYLER. Under duress? No; he was a Mormon, believing in the revelation of Joseph Smith, in the authority of the church over him. He had his convictions on the question as to whether Joseph Smith talked, face to face, with God; whether these revelations were commands upon him. A mere difference that he might have with his hierarchy did not change the basic, the fundamental beliefs that were the very groundwork of that man's life. He had to do it.

Senator BEVERIDGE. Then the state of mind of any Mormon, which you referred to a moment ago, is relative to the issue we are discussing?

Mr. TAYLER. It might be. I am only showing you how it is that the political manifesto was operative and how they dealt with a man who refused to stand by it. A fuller account of these findings will be found in the argument I made on Thursday.

My friend, Mr. Worthington, seems to have taken on somewhat the sophistical and elusive habit of reasoning which characterizes all of the intellectual men who have been prominent in the Mormon Church.

Here we are seriously told by him that only one case of plural marriage since the manifesto has been established by proof, and that the case of Mrs. Kennedy, who testifies that she was married by Apostle Brigham Young, jr., in Mexico, in 1896. Mr. Worthington admits this particular marriage only because a participant in the ceremony herself appears and testifies to a fact fully within her own knowledge. If this is the only way in which proof of marriage can be made, then, of course, this is the only case of plural marriage which has been shown to have occurred since the manifesto.

But what shall be said of the candor of the claim made in this respect? We can not for a moment doubt that, by valid proof, absolutely convincing, wholly uncontradicted, with no intimation that it could be controverted, it has been shown that Apostle Abram H. Cannon took a plural wife, in the person of Lillian Hamlin, in 1896. We know about that case that he held her out as his wife; that he traveled through California and back to Utah in company with Apostle Joseph F. Smith, now president of the church, and other associates of respectability and character, proclaiming her as his wife. This Joseph F. Smith testifies to himself. We know that the family of Lillian Hamlin recognized her as Abram Cannon's wife.

We know, from circumstances of her life prior to the time when it is said she married Abram Cannon, she could not be controlled by the inferences and conclusions that we draw from the common affairs of life and have been married. We have the fact that a child was born, to whom the name of Cannon was given; that the representatives of

Abram Cannon's father recognized this child as the legitimate offspring of Abram Cannon, and, indeed, that all of the descendants of George Q. Cannon admitted this, because the child was permitted to share in the estate of that prominent man. We know from the testimony of one of the wives of Abram Cannon, herself a true and faithful Mormon, who testified unwillingly before the committee, that Abram Cannon told her on his deathbed that he had married Lillian Hamlin, and asked her forgiveness. Surely, if ever a fact was proven to the satisfaction of men, it has been shown that in 1896 Apostle Abram H. Cannon took a plural wife.

The incident as to Apostle George Teasdale is familiar to the committee. Many years before 1896, he had married. Subsequently, before the manifesto, he had married a plural wife, who, some time later, died. Her relation to this inquiry is unimportant. Then, about 1896, George Teasdale, while his first wife--the wife whom he had married twenty or twenty-five years before--was living, married Marion Scoles. Three or four years after, in 1899, after the death of his plural wife, Marion Scoles, he procured a divorce from his first and lawful wife. This divorce he obtained on the ground, as found by the court, that the first wife, when she married Apostle Teasdale, was incapable of consummating the marriage relation, and the marriage was thereupon declared void from the beginning.

The proof in that divorce case showed that this want of capacity in his legal wife was learned by Apostle Teasdale immediately after the marriage, by the testimony of his own senses. Now it is claimed that, although the judicial determination of the fact upon which the divorce was based did not occur until after the marriage to Marion Scoles, yet, that the fact existing as it did, George Teasdale was entitled to assume that his first marriage was void, and therefore ineffective to prevent his taking a new wife.

Consider the case of Apostle John W. Taylor. Here is a man whose home was in a small community, where everybody knew the domestic affairs of his neighbors. A lifelong citizen of the community testified, last spring, before the committee, that Apostle John W. Taylor was reputed in that community to have taken, as his fourth and fifth wives, two young women by the name of Welling.

An effort was made to secure the attendance before the committee of this apostle. The marshal could not find him. The president of the church reports to the chairman of the committee that he had communicated with Apostle Taylor on the subject of his appearance here as a witness, and Apostle Taylor replied that he would not present himself here to testify, nor would he come within the jurisdiction where service of subpoena could be made upon him. Not only that, but another witness is brought from the community in Utah, in which the repute of Apostle Taylor's taking two new plural wives exists, to deny that his repute is as claimed by the protestants' witness.

If the fact were not as we claim, a crowd of witnesses would be here to testify to it. If it were not true, Apostle Taylor, if he has any regard for his own standing, if he has any respect for his church, if he has any desire to have that church appear as having truly and faithfully kept its promises and lived up to the manifesto, would, of all men, have been swiftest to come here and testify. He would, indeed, in common humanity, come here and testify, in order to remove the

stain which the testimony of our witness put upon these two young women.

The testimony was given here last spring, and along toward the approach of the fall conference Senator Smoot makes some objection. Of course he could not escape the knowledge, for it was disclosed here in his presence, but still nothing much occurs, and a month ago we are told by Witness Worthington—and I am sure I am glad he testified about it—that at the meeting of the first presidency when he, Mr. Worthington, was present, a demand was made that this apostle be produced. Well, I should think so. That would speedily occur to the mind of Mr. Worthington, but it did not occur to the minds of the apostles or any of them. Senator Smoot, Mr. Worthington says, backed him up. Of course he did. The client was behind the lawyer there. But Apostle Taylor is not here yet, and we do not hear from Mr. Worthington that any promise was obtained to have him here.

Taking, therefore, the Taylor episode from beginning to end, the proof is absolutely conclusive, as it is in fact absolutely uncontradicted, that this apostle, some 46 or 47 years old, has, within the last three or four years, taken two very young women to be his fourth and fifth plural wives.

Take the case of S. S. Newton and his plural wife. Testimony is in the case that, by repute, S. S. Newton has, within very recent years, and long after the manifesto, taken a new plural wife. If the testimony of his repute in this respect stood alone, it might not be persuasive and certainly would not be convincing. But in the absence of any contradiction of it, and especially in view of the fact that Newton and his recent plural wife were both personally served with process requiring their presence before this committee and have fled and refused to appear, the conclusion is irresistible that this was a case of recent plural marriage.

Take the case of Chamberlain, concerning whom the repute is definite, positive, and convincing that he has taken a new plural wife within recent years. The testimony of this repute is of the highest character. It is given not only by our witnesses, but by Supreme Judge McCarty, who knows well the parties—both Chamberlain and the new plural wife. The new plural wife was a young woman of the highest character and standing, concerning whom no one would have any more right to say that she had entered into an unchaste relation than he would have to say the same of any chaste woman in the community.

A serious and determined effort was made, as testified to by Marshal Heywood, to serve a subpoena upon Chamberlain. He was in Senator Smoot's little city of Provo. The marshal's deputy sought in vain to find him, although we know that he was there. He could not be found. He is not here. He is a high official of the church. To say that there is no satisfactory evidence that he has recently taken a new plural wife is to deny that men can be convinced of the common facts of life except by technical proof of eyewitnesses to a certain fact.

Take the case of Apostle Mathias F. Cowley. The testimony in respect to his repute, taken by itself, would not be convincing; but we have no word of contradiction of it, and Apostle Cowley, like Apostle Taylor, is a fugitive from the country. Like Apostle Taylor, he refuses to appear. His personal attention has been called to the desire of the committee that he present himself as a witness. He has kept

himself where process of the United States Government does not run, or, if he is within the country, he is so in hiding that we are unable to listen to his explanation of this charge. So as to others of the witnesses who were sought in vain by the vigilant agents of this committee, the marshal of the United States and his deputies, and the facts connected with their disappearance and refusal to appear are quite persuasive that plural wives have thus been taken by him.

Nor is the case of the son of Apostle Merrill, in spirit, any different from that of Abram Cannon, Mrs. Kennedy, George Teasdale, Apostles Taylor and Cowley. It may be, technically, from the assumption that a common-law marriage is unknown in Utah, that the wife whom Merrill married in 1891 was by him lawfully married; but the violation of the law, in spirit, is as manifest, as outrageous, as if that marriage was in fact a marriage to a plural wife. He continues to justify his living with his plural wife whom he married in 1888 as righteous, because he married her before the manifesto, and to justify his continued living with the woman whom he married in 1891 because at the time he married her he had no legal wife, and therefore the marriage with that woman was valid.

The proof of these marriages is not to be taken as limiting our belief that many other plural marriages have occurred. This is not a criminal case, in which we seek to convict the several people against whom testimony is introduced. The cases presented are types. We have shown so many of them—all but one or two of them relating to persons high in the councils of the Mormon Church—as showing that the claim that plural marriages have been in good faith forbidden is a pretense and a fraud. Not one of the many persons who have thus been shown by indubitable proof to have taken these plural wives, has been criticised, disciplined, or prosecuted by the church officials. If the stand that the church was and is candid, and if in truth and in fact anything but the policeman's club has been operated to prevent the taking of new plural wives, then the church would have been the first to complain, and would have been unceasing in its efforts to prosecute and to discipline those who had thus dragged the good name of the church in the dust.

Senator Smoot says—I am illustrating this matter of want of knowledge—that he did not know that Apostle Penrose was a polygamist. Now, Charles W. Penrose has been one of the best-known men in his church. He was a polygamist, and had been for years, and, surely in the presence of Senator Smoot, for he was here constantly, Joseph F. Smith, the president of the church, on the second day he testified here, told us that Charles W. Penrose was a polygamist. Senator Smoot, we are told, did not know it—did not know it the following July when he united with all the rest of his colleagues to make this polygamist a member of this high body. True, he goes on to say it would not have made any difference if he had known it.

The fact is that the certainty that a high Mormon official is a polygamist, makes the statement that any particular one is a polygamist of no sort of significance. It makes no impression upon the apostolic mind to have one of the high members of the church spoken of as a polygamist. That is why I assume that Senator Smoot, having heard with his own ears here the statement of Joseph S. Smith, as I doubt not he did, that Charles W. Penrose was a polygamist, forgot that he had heard any such thing and testified that he had never heard it.

Now, one other word. I hardly believed what I heard Mr. Worthington say on this subject of the propriety of unlawful cohabitation. No citizen of Utah, no Mormon, Jack Mormon, or Gentile, has equaled Mr. Worthington in his eulogy of the propriety, necessity, legality, of unlawful cohabitation; and the logic of that position sent him to a proposition which surprised me.

If I understand his proposition, it is in effect that it is now the rule of the church that polygamous cohabitation may be practiced. A thing is either one or the other when it relates to such a subject as polygamy.

That is to say, it is either proper or it is improper. It is either according to the rule of the church, or it is against the rule of the church, that one should enter into plural marriage. It is either according to the rule of the church or against the rule of the church that one should continue polygamous cohabitation. I think there is no flaw in that position.

Mr. Worthington insists that the church has no authority to deal with any man who is engaged in the business of polygamous cohabitation. He insists that the president of the church is without authority to criticise, and that it is plain that Senator Smoot would be without authority to do it. Why? Because the manifesto of 1890 related alone to the contracting of new plural marriages, and that when anybody is charged with violating the law of the land or the rule of the church respecting polygamous cohabitation, he would answer:

"The manifesto does not mean that. I was there. I held up my hand to sustain it, and I heard what was in it. It did not prohibit me from continuing to live with my wives. It prohibited me only from taking more wives."

THE CHAIRMAN. Who are you reading from?

MR. TAYLER. I am reading from Mr. Worthington, in his argument made here yesterday.

MR. WORTHINGTON. It does not mean that I was there, Mr. Chairman. I am quoting.

MR. TAYLER. I understand you were quoting the person whom the president of the church charges with being guilty of polygamous cohabitation.

SENATOR BEVERIDGE. His interpretation of the manifesto?

MR. TAYLER. Exactly. That is to say, that he had a right to violate the manifesto, and the church had no right to deal with him for it.

SENATOR BEVERIDGE. His interpretation of what he voted for?

MR. TAYLER. And that he had a right to interpret that manifesto as he pleased, and that therefore there was no rule of the church against polygamous cohabitation. There is no rule of the church against it, according to Mr. Worthington, and if there is no rule of the church against it then there is no objection to it. Therefore the church does encourage it, the church does connive at it, the church does countenance it. The president of the church and seven of his associate apostles do practice polygamous cohabitation. The president of the church has proclaimed more than once to the thousands of his people that the man who does not thus remain true to his wives will be eternally damned.

SENATOR BEVERIDGE. Mr. Tayler, do you not think that is rather daring reasoning, that because a church or any other organization does not specifically have something against a thing, therefore it is the rule of that church organization that it approves of that thing? Take

many crimes that are not to be mentioned upon which there is absolutely nothing in any church to which any of us belong or to which you belong. The mere fact that we say nothing about it, you would not contend, would mean that we actually, as a rule of our bodies, approve of it as a matter of abstract reasoning?

Mr. TAYLER. That is right, as a matter of abstract reasoning; but if the church to which you or I belong had established polygamy, and we had entered into polygamous marriage in consequence of the divine law, and proceeded to polygamously cohabit with all of our wives, and then the law commanding plural marriage had been suspended, and we continued to polygamously cohabit with the wives we took when the Lord permitted it, and the law, as we claimed, permitted it, and the church proclaimed that its law then was that no more plural wives could be received, but said nothing about continuing to live in polygamous cohabitation, and its high officials continued to live in polygamous cohabitation, then I say yes, that is the rule of the church in respect to polygamous cohabitation.

Senator BEVERIDGE. It is not important. I was merely testing, as I think you will appreciate, the accuracy of your abstract reasoning.

Mr. TAYLER. I understand that.

Senator BEVERIDGE. I will take this case out of the question; but applying it to any possible case; I was testing the accuracy of your abstract reasoning, by which you arrive at the conclusion that because any organization says nothing upon a certain subject, therefore it approves that subject.

Mr. TAYLER. Undoubtedly. The Senator's view is right. I was not reasoning about the Mormon Church and a concrete situation. The failure of any organization —

Mr. WORTHINGTON. Let me say, what you forget, that the rule of the church is that its members shall obey all the laws.

Mr. TAYLER. Well, I do not have any patience at all with the interpolation of that rule—I do not mean I am impatient with the gentleman who does it—

Mr. WORTHINGTON. I understand.

Mr. TAYLER. At every turn, where they admit that the law is so and so, and in the same breath admit that they violate it, say that they violate it, because it is God's command, and that they will be damned if they are not true to their wives. There is no mistake about what is meant by the expression "true to their wives."

If it is a rule of the church that its "members should obey all the laws," then what difficulty is there in disciplining a member for disobedience by breaking the law against unlawful cohabitation?

I only want to say one word more, not in the way of peroration, but of explanation, or rather of answer, to something that Mr. Worthington said, as if the charges in this case had been made different at one stage of this proceeding from what they were at the other.

I do not think Mr. Worthington, after the recasting of the charges had been made, ever compared them with the first. If some gentleman of the committee, or all the committee, will be kind enough to take the time to read the charges that were originally made—I mean the italicized headings that were originally made, which I have not the time to do now—he will discover perfectly clear propositions. *Then if he will read the charges I made he will discover that I have not varied them in substance one jot or tittle.*

I can illustrate the kind of change I did make. The first charge in the protest is:

"The Mormon priesthood, according to the doctrines of that church, is vested with supreme authority in all things temporal and spiritual."

And I said——

Senator DILLINGHAM. What page do you read from?

Mr. TAYLER. Page 42, now——

"The Mormon priesthood, according to the doctrine of that church, and the belief and practice of its membership, is vested with and assumes to exercise supreme authority in all things, temporal and spiritual, civil and political. The head of the church claims to receive divine revelations, and these Reed Smoot, by his covenants and obligation, is bound to accept and obey."

The same thing appears in the charge elsewhere. I merely formulated what was already before the committee, because it seemed to me to clarify the issue.

Gentlemen, I am glad that I have been permitted to address you to this extent in reply to Mr. Worthington. I had not myself expected to do so, but that Mr. Carlisle, who was originally associated with me, would conclude the argument. I do not mean that as apologizing for any infirmity in any reply that I have made, because I have known ever since Mr. Van Cott commenced that I would make whatever reply was to be made.

So far as the protestants are concerned, I leave the case with you. I have no interest except that the right be done. I have no client who will suffer by your finding, whatever that finding may be. I have no interest in this except that the Senate should recognize, to a proper extent, its own duty, its own powers, its own prerogatives, both as a Senate and as applicable to the individual members of the Senate.

I have tried to preserve during the hearing in this case as nearly a judicial attitude as would be possible for one who was engaged as counsel in the case. I think I have fairly well succeeded in that effort. I am not without the personal interest that an advocate has in the controversy in which he is participating, but I believe the committee will think, I believe the committee have apprehended, that I have tried only to inform it respecting the situation that exists in the State of Utah; that I have sought not to mislead them in any respect; that I have not endeavored to prejudice them in any way against the Senator who is their associate, but that, as nearly as it is possible for man with human qualities to do so, I have sought to discover and uncover the truth.

Senator DILLINGHAM. Mr. Tayler, may I ask that in revising your notes you will make reference to the testimony and the documents you refer to, so that we may more easily find them?

Mr. TAYLER. I am going to do so, Senator.

The CHAIRMAN. I wish to say to counsel upon both sides that the committee is greatly obligated to the counsel for the assistance they have rendered in this investigation. That assistance can be further rendered by counsel in making their briefs as full as possible, and referring to testimony, as suggested by Senator Dillingham, and to everything that they regard as material.

I would therefore be glad to know of counsel about how much time they would like in order to make such elaborate briefs as the committee would desire.

Mr. WORTHINGTON. I think something was said the other day at the beginning of Mr. Van Cott's address to the effect that we would have until next Wednesday for that purpose. Of course between now and Wednesday we can not prepare anything like a satisfactory digest.

The CHAIRMAN. I think the committee, Mr. Worthington, would be glad to have counsel take such time as they would like.

Mr. WORTHINGTON. Then let us have until Saturday of next week.

Senator BEVERIDGE. Make your work perfect, and that will save time for us.

The CHAIRMAN. Yes; we want it complete when you do it.

Mr. WORTHINGTON. We will try to complete our briefs by Saturday of next week.

The CHAIRMAN. And, Mr. Tayler, how much time will you want?

Mr. TAYLER. Saturday will do.

The CHAIRMAN. Of next week?

Mr. TAYLER. Saturday of next week.

The CHAIRMAN. Then that is understood. With that understanding the committee will stand adjourned.

The committee (at 1 o'clock and 35 minutes p. m.) adjourned.

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